

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

LA UNIÓN DEL PUEBLO ENTERO, *et al.*,
Plaintiffs,

v.

GREGORY W. ABBOTT, *et al.*,
Defendants.

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§

Consolidated Case No. 5:21-cv-844-XR

**Documents Produced with State Defendants' Initial Disclosures
November 5, 2021**

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**Senate Bill 1
Legislative Session: 87
Second Special Session**

Part VII

Date: November 15, 2021

Respectfully submitted.

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CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the foregoing document was filed electronically (via CM/ECF) on November 15, 2021, and that all counsel of record were served by CM/ECF.

/s/ Patrick K. Sweeten
PATRICK K. SWEETEN

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1 (e) A registrar shall correct a violation within 30 days of
 2 a notice under Subsection (b). If a registrar fails to correct the
 3 violation within 30 days of a notice under Subsection (b), the
 4 secretary of state shall:

5 (1) correct the violation on behalf of the registrar;
 6 and

7 (2) notify the attorney general that the registrar
 8 failed to correct a violation under this subsection.

9 (f) A county served by a registrar who fails to correct a
 10 violation under Subsection (e) is liable to this state for a civil
 11 penalty of \$1,000 for each violation corrected by the secretary of
 12 state under that subsection. The attorney general may bring an
 13 action to recover a civil penalty imposed under this section.

14 (g) A civil penalty collected by the attorney general under
 15 this section shall be deposited in the state treasury to the credit
 16 of the general revenue fund.

17 SECTION 7.02. Subchapter E, Chapter 31, Election Code, is
 18 amended by adding Sections 31.128 and 31.129 to read as follows:

19 Sec. 31.128. RESTRICTION ON ELIGIBILITY. (a) In this
 20 section, "election official" means:

- 21 (1) a county clerk;
 22 (2) a permanent or temporary deputy county clerk;
 23 (3) an elections administrator;
 24 (4) a permanent or temporary employee of an elections
 25 administrator;
 26 (5) an election judge;
 27 (6) an alternate election judge;

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1 (7) an early voting clerk;
2 (8) a deputy early voting clerk;
3 (9) an election clerk;
4 (10) the presiding judge of an early voting ballot
5 board;
6 (11) the alternate presiding judge of an early voting
7 ballot board;
8 (12) a member of an early voting ballot board;
9 (13) the chair of a signature verification committee;
10 (14) the vice chair of a signature verification
11 committee;
12 (15) a member of a signature verification committee;
13 (16) the presiding judge of a central counting
14 station;
15 (17) the alternate presiding judge of a central
16 counting station;
17 (18) a central counting station manager;
18 (19) a central counting station clerk;
19 (20) a tabulation supervisor; and
20 (21) an assistant to a tabulation supervisor.
21 (b) A person may not serve as an election official if the
22 person has been finally convicted of an offense under this code.
23 Sec. 31.129. CIVIL PENALTY. (a) In this section, "election
24 official" has the meaning assigned by Section 31.128.
25 (b) An election official may be liable to this state for a
26 civil penalty if the official:
27 (1) is employed by or is an officer of this state or a

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1 political subdivision of this state; and

2 (2) violates a provision of this code.

3 (c) A civil penalty imposed under this section may include
 4 termination of the person's employment and loss of the person's
 5 employment benefits.

6 SECTION 7.03. Subchapter E, Chapter 31, Election Code, is
 7 amended by adding Section 31.130 to read as follows:

8 Sec. 31.130. SUIT AGAINST ELECTION OFFICER. An action,
 9 including an action for a writ of mandamus, alleging that an
 10 election officer violated a provision of this code while acting in
 11 the officer's official capacity may only be brought against the
 12 officer in the officer's official capacity.

13 SECTION 7.04. Section 232.006 (a), Election Code, is amended
 14 to read as follows:

15 (a) The venue of an election contest for a statewide office
 16 is in Travis County or any county where a contestee resided at the
 17 time of the election. For purposes of this section, a contestee's
 18 residence is determined under Section 411.0257, Government Code.

19 SECTION 7.05. Sections 232.008 (b), (c), and (d), Election
 20 Code, are amended to read as follows:

21 (b) Except as provided by Subsection (c), a contestant must
 22 file the petition not later than the later of the 45th ~~[30th]~~ day
 23 after the date the election records are publicly available under
 24 Section 1.012 or the official result of the contested election is
 25 determined.

26 (c) A contestant must file the petition not later than the
 27 later of the 15th ~~[10th]~~ day after the date the election records are

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publicly available under Section 1.012 or the official result is determined in a contest of:

- (1) a primary or runoff primary election; or
- (2) a general or special election for which a runoff is necessary according to the official result or will be necessary if the contestant prevails.

(d) A contestant must deliver, electronically or otherwise, a copy of the petition to the secretary of state by the same deadline prescribed for the filing of the petition.

SECTION 7.06. The heading to Title 14, Election Code, is amended to read as follows:

TITLE 14. ELECTION CONTESTS AND OTHER ELECTION LAWSUITS

SECTION 7.07. Title 14, Election Code, is amended by adding Subtitle D to read as follows:

SUBTITLE D. OTHER ELECTION LAWSUITS

CHAPTER 247. LAWSUIT ALLEGING IMPROPER ELECTION ACTIVITIES

Sec. 247.001. PETITION ALLEGING FRAUD. This chapter applies to a civil suit in which a candidate in an election alleges in the petition that an opposing candidate, an agent of the opposing candidate, or a person acting on behalf of the opposing candidate with the candidate 's knowledge violated any of the following sections of this code:

- (1) Section 13.007 ;
- (2) Section 64.012 ;
- (3) Section 64.036 ;
- (4) Section 84.003 ;
- (5) Section 84.0041 ;

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1 (6) Section 86.0051 ;

2 (7) Section 86.006 ;

3 (8) Section 86.010 ; or

4 (9) Section 276.013 .

5 Sec. 247.002. PROCEDURE. A candidate in an election may
6 file a petition for an action under this chapter in any county where
7 a defendant resided at the time of the election. If the election is
8 for a statewide office, the candidate may also file the petition in
9 a district court in Travis County.

10 Sec. 247.003. FILING PERIOD FOR PETITION. A candidate in an
11 election may file a petition for an action under this chapter not
12 earlier than the day after the date the election is certified and
13 not later than the 45th day after the later of that date or the date
14 election records are made publicly available under Section 1.012 .

15 Sec. 247.004. DAMAGES. (a) If it is shown by a
16 preponderance of the evidence that a defendant, an agent of the
17 defendant, or a person acting on behalf of the defendant with the
18 defendant 's knowledge committed one or more violations of a section
19 described by Section 247.001, the defendant is liable to the
20 plaintiff for damages in an amount of \$1,000 for each violation.

21 (b) Notwithstanding Section 41.004 , Civil Practice and
22 Remedies Code, a court shall award damages under Subsection (a) to
23 the plaintiff irrespective of whether the plaintiff is awarded
24 actual damages.

25 Sec. 247.005. ATTORNEY 'S FEES. In an action under this
26 chapter, the court may award reasonable attorney 's fees to the
27 prevailing party.

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SECTION 7.08. Section 273.061 , Election Code, is amended to read as follows:

Sec. 273.061. JURISDICTION. (a) The supreme court or a court of appeals may issue a writ of mandamus to compel the performance of any duty imposed by law in connection with the holding of an election or a political party convention, regardless of whether the person responsible for performing the duty is a public officer.

(b) The court of criminal appeals may issue a writ of mandamus to compel the performance of any duty imposed by law in connection with the provision, sequestration, transfer, or impoundment of evidence in or records relating to a criminal investigation conducted under this code or conducted in connection with the conduct of an election or political party convention. If a writ of mandamus is issued under this subsection, it shall include an order requiring the provision, sequestration, transfer, or impoundment of the evidence or record.

SECTION 7.09. Subchapter D, Chapter 22 , Government Code, is amended by adding Section 22.304 to read as follows:

Sec. 22.304. PRIORITY OF CERTAIN ELECTION PROCEEDINGS. (a) The supreme court, the court of criminal appeals, or a court of appeals shall prioritize over any other proceeding pending or filed in the court a proceeding for injunctive relief or for a writ of mandamus under Chapter 273 , Election Code, pending or filed in the court on or after the 120th day before a general or special election.

(b) If granted, oral argument for a proceeding described by

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1 Subsection (a) may be given in person or through electronic means.

2 SECTION 7.10. Section 23.101 , Government Code, is amended
3 by amending Subsection (a) and adding Subsection (b-1) to read as
4 follows:

5 (a) Except as provided by Subsection (b-1), the ~~[The]~~ trial
6 courts of this state shall regularly and frequently set hearings
7 and trials of pending matters, giving preference to hearings and
8 trials of the following:

9 (1) temporary injunctions;

10 (2) criminal actions, with the following actions given
11 preference over other criminal actions:

12 (A) criminal actions against defendants who are
13 detained in jail pending trial;

14 (B) criminal actions involving a charge that a
15 person committed an act of family violence, as defined by Section
16 71.004 , Family Code;

17 (C) an offense under:

18 (i) Section 21.02 or 21.11 , Penal Code;

19 (ii) Chapter 22 , Penal Code, if the victim
20 of the alleged offense is younger than 17 years of age;

21 (iii) Section 25.02 , Penal Code, if the
22 victim of the alleged offense is younger than 17 years of age;

23 (iv) Section 25.06 , Penal Code;

24 (v) Section 43.25 , Penal Code; or

25 (vi) Section 20A.02 (a)(7), 20A.02 (a)(8),
26 or 20A.03 , Penal Code;

27 (D) an offense described by Article 62.001 (6)(C)

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or (D), Code of Criminal Procedure; and

(E) criminal actions against persons who are detained as provided by Section 51.12, Family Code, after transfer for prosecution in criminal court under Section 54.02, Family Code;

(3) election contests and suits under the Election Code;

(4) orders for the protection of the family under Subtitle B, Title 4, Family Code;

(5) appeals of final rulings and decisions of the division of workers' compensation of the Texas Department of Insurance regarding workers' compensation claims and claims under the Federal Employers' Liability Act and the Jones Act;

(6) appeals of final orders of the commissioner of the General Land Office under Section 51.3021, Natural Resources Code;

(7) actions in which the claimant has been diagnosed with malignant mesothelioma, other malignant asbestos-related cancer, malignant silica-related cancer, or acute silicosis; and

(8) appeals brought under Section 42.01 or 42.015, Tax Code, of orders of appraisal review boards of appraisal districts established for counties with a population of less than 175,000.

(b-1) Except for a criminal case in which the death penalty has been or may be assessed or when it would otherwise interfere with a constitutional right, the trial courts of this state shall prioritize over any other proceeding pending or filed in the court a proceeding for injunctive relief under Chapter 273, Election Code, pending or filed in the court on or after the 120th day before a general or special election.

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ARTICLE 8. INELIGIBLE VOTERS AND RELATED REFORMS

SECTION 8.01. Chapter 42, Code of Criminal Procedure, is amended by adding Article 42.0194 to read as follows:

Art. 42.0194. FINDING REGARDING FELONY CONVICTION. In the trial of a felony offense, if the defendant is 18 years of age or older and is adjudged guilty of the offense, the court shall:

(1) make an affirmative finding that the person has been found guilty of a felony and enter the affirmative finding in the judgment of the case; and

(2) instruct the defendant regarding how the felony conviction will impact the defendant 's right to vote in this state.

SECTION 8.02. Article 42.01, Code of Criminal Procedure, as effective September 1, 2021, is amended by adding Section 16 to read as follows:

Sec. 16. In addition to the information described by Section 1, the judgment should reflect the affirmative finding and instruction entered pursuant to Article 42.0194.

ARTICLE 9. REPEALER; SEVERABILITY; TRANSITION; EFFECTIVE DATE

SECTION 9.01. The following provisions of the Election Code are repealed:

(1) Section 85.062 (e); and

(2) Section 127.201 (f).

SECTION 9.02. If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared

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1 to be severable.

2 SECTION 9.03. (a) Except as otherwise provided by this Act,
3 the changes in law made by this Act apply only to an offense
4 committed on or after the effective date of this Act. An offense
5 committed before the effective date of this Act is governed by the
6 law in effect when the offense was committed, and the former law is
7 continued in effect for that purpose. For purposes of this section,
8 an offense was committed before the effective date of this Act if
9 any element of the offense occurred before that date.

10 (b) The changes in law made by this Act apply only to an
11 election ordered on or after the effective date of this Act. An
12 election ordered before the effective date of this Act is governed
13 by the law in effect when the election was ordered, and the former
14 law is continued in effect for that purpose.

15 (c) The changes in law made by this Act apply only to an
16 election contest for which the associated election occurred after
17 the effective date of this Act.

18 (d) The changes in law made by this Act apply only to an
19 application to vote an early voting ballot by mail submitted on or
20 after the effective date of this Act. An application to vote an
21 early voting ballot by mail submitted before the effective date of
22 this Act is governed by the law in effect when the application was
23 submitted, and the former law is continued in effect for that
24 purpose.

25 (e) The changes in law made by this Act apply only to an
26 application for voter registration submitted on or after the
27 effective date of this Act.

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1 SECTION 9.04. This Act takes effect on the 91st day after
2 the last day of the legislative session.

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1 AN ACT

2 relating to election integrity and security, including by

3 preventing fraud in the conduct of elections in this state;

4 increasing criminal penalties; creating criminal offenses.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 ARTICLE 1. GENERAL PROVISIONS

7 SECTION 1.01. SHORT TITLE. This Act may be cited as the

8 Election Integrity Protection Act of 2021.

9 SECTION 1.02. PURPOSE. The purpose of this Act is to

10 exercise the legislature 's constitutional authority under Section

11 4, Article VI, Texas Constitution, to make all laws necessary to

12 detect and punish fraud.

13 SECTION 1.03. FINDINGS. The legislature finds that:

14 (1) full, free, and fair elections are the

15 underpinnings of a stable constitutional democracy;

16 (2) fraud in elections threatens the stability of a

17 constitutional democracy by undermining public confidence in the

18 legitimacy of public officers chosen by election;

19 (3) reforms are needed to the election laws of this

20 state to ensure that fraud does not undermine the public confidence

21 in the electoral process;

22 (4) the reforms to the election laws of this state made

23 by this Act are not intended to impair the right of free suffrage

24 guaranteed to the people of Texas by the United States and Texas

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1 Constitutions, but are enacted solely to prevent fraud in the
 2 electoral process and ensure that all legally cast ballots are
 3 counted. Integral to the right to vote is the assurance of voter
 4 access and the right for all votes legally cast to be counted;

5 (5) additionally, preventing a valid vote from being
 6 counted violates the basic constitutional rights guaranteed to each
 7 citizen by the United States Constitution; and

8 (6) providing for voter access and increasing the
 9 stability of a constitutional democracy ensures public confidence
 10 in the legitimacy of public officers chosen by election.

11 SECTION 1.04. Chapter 1, Election Code, is amended by
 12 adding Section 1.0015 to read as follows:

13 Sec. 1.0015. LEGISLATIVE INTENT. It is the intent of the
 14 legislature that the application of this code and the conduct of
 15 elections be uniform and consistent throughout this state to reduce
 16 the likelihood of fraud in the conduct of elections, protect the
 17 secrecy of the ballot, promote voter access, and ensure that all
 18 legally cast ballots are counted.

19 SECTION 1.05. Section 1.003, Election Code, is amended by
 20 adding Subsection (a-1) to read as follows:

21 (a-1) Election officials and other public officials shall
 22 strictly construe the provisions of this code to effect the intent
 23 of the legislature under Section 1.0015.

24 SECTION 1.06. Section 1.005, Election Code, is amended by
 25 amending Subdivision (4-a) and adding Subdivision (4-b) to read as
 26 follows:

27 (4-a) "Election official" means:

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- 1 (A) a county clerk;
- 2 (B) a permanent or temporary deputy county clerk;
- 3 (C) an elections administrator;
- 4 (D) a permanent or temporary employee of an
5 elections administrator;
- 6 (E) an election judge;
- 7 (F) an alternate election judge;
- 8 (G) an early voting clerk;
- 9 (H) a deputy early voting clerk;
- 10 (I) an election clerk;
- 11 (J) the presiding judge of an early voting ballot
12 board;
- 13 (K) the alternate presiding judge of an early
14 voting ballot board;
- 15 (L) a member of an early voting ballot board;
- 16 (M) the chair of a signature verification
17 committee;
- 18 (N) the vice chair of a signature verification
19 committee;
- 20 (O) a member of a signature verification
21 committee;
- 22 (P) the presiding judge of a central counting
23 station;
- 24 (Q) the alternate presiding judge of a central
25 counting station;
- 26 (R) a central counting station manager;
- 27 (S) a central counting station clerk;

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1 (T) a tabulation supervisor;

2 (U) an assistant to a tabulation supervisor; and

3 (V) a chair of a county political party holding a
 4 primary election or a runoff primary election.

5 (4-b) "Federal judge" means:

6 (A) a judge, former judge, or retired judge of a
 7 United States court of appeals;

8 (B) a judge, former judge, or retired judge of a
 9 United States district court;

10 (C) a judge, former judge, or retired judge of a
 11 United States bankruptcy court; or

12 (D) a magistrate judge, former magistrate judge,
 13 or retired magistrate judge of a United States district court.

14 SECTION 1.07. Section 1.018 , Election Code, is amended to
 15 read as follows:

16 Sec. 1.018. APPLICABILITY OF PENAL CODE. In addition to
 17 Section 1.03 , Penal Code, and to other titles of the Penal Code that
 18 may apply to this code, Titles 2 and [Title] 4, Penal Code, apply
 19 ~~[applies]~~ to offenses prescribed by this code.

20 SECTION 1.08. Chapter 1, Election Code, is amended by
 21 adding Section 1.022 to read as follows:

22 Sec. 1.022. REASONABLE ACCOMMODATION OR MODIFICATION. A
 23 provision of this code may not be interpreted to prohibit or limit
 24 the right of a qualified individual with a disability from
 25 requesting a reasonable accommodation or modification to any
 26 election standard, practice, or procedure mandated by law or rule
 27 that the individual is entitled to request under federal or state

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1 law.

2 ARTICLE 2. REGISTRATION OF VOTERS

3 SECTION 2.01. Section 13.002 , Election Code, is amended by
4 adding Subsection (c-1) to read as follows:

5 (c-1) The information required under Subsections (c)(3),
6 (4), (5), (6), and (8) must be supplied by the person desiring to
7 register to vote.

8 SECTION 2.02. Section 13.007 , Election Code, is amended to
9 read as follows:

10 Sec. 13.007. FALSE STATEMENT ON APPLICATION. (a) A person
11 commits an offense if the person knowingly or intentionally:

12 (1) makes a false statement; _ or
13 (2) requests, commands, coerces, _ or attempts to induce
14 another person to make a false statement on a registration
15 application.

16 (b) An offense under this section is a Class A ~~[B]~~
17 misdemeanor, except that an offense under this section is a state
18 jail felony if the person:

19 (1) directly or through a third party offers or
20 provides compensation or other benefit to a person for activity
21 described by Subsection (a); or

22 (2) solicits, receives, or accepts compensation or
23 other benefit for an activity described by Subsection (a).

24 (c) If conduct that constitutes an offense under this
25 section also constitutes an offense under another law, the actor
26 may be prosecuted under this section, the other law, or both. ~~[For~~
27 ~~purposes of this code, an offense under this section is considered~~

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1 ~~to be perjury, but may be prosecuted only under this section.]~~

2 SECTION 2.03. Section 15.021 , Election Code, is amended by
3 amending Subsections (b) and (d) and adding Subsections (d-1) and
4 (d-2) to read as follows:

5 (b) Except as provided by Subsection (d), the ~~[The]~~ voter
6 shall use the registration certificate or a registration
7 application form as the notice, indicating the correct information
8 in the appropriate space on the certificate or application form
9 unless the voter does not have possession of the certificate or an
10 application form at the time of giving the notice.

11 (d) A voter ~~[who continues to reside in the county in which~~
12 ~~the voter is registered]~~ may correct information under this section
13 by digital transmission of the information under a program
14 administered by the secretary of state and the Department of
15 Information Resources.

16 (d-1) If the notice indicates that a voter no longer resides
17 in the county in which the voter is registered, the registrar shall
18 forward the notice and the voter 's application for registration to
19 the registrar of the county in which the voter resides. The
20 registrars shall coordinate to ensure that the voter 's existing
21 registration is canceled immediately after the voter is registered
22 in the county in which the voter resides in accordance with
23 Subsection (d-2).

24 (d-2) A registrar who receives a voter 's notice and
25 application from another registrar under Subsection (d-1) shall
26 treat it as an original application for registration under Section
27 13.002 , and shall register the voter if the voter resides in the

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1 county and is otherwise eligible under Section 13.001 .

2 SECTION 2.04. Section 15.028 , Election Code, is amended to
3 read as follows:

4 Sec. 15.028. NOTICE OF UNLAWFUL VOTING OR REGISTRATION [~~TO~~
5 ~~PROSECUTOR].~~ [(a)] If the registrar determines that a person who
6 is not eligible to vote registered to vote or [~~a registered voter~~]
7 voted in an election, the registrar shall, within 72 hours not
8 including weekends after making the determination, execute and
9 deliver to the attorney general, the secretary of state, and the
10 county or district attorney having jurisdiction in the territory
11 covered by the election an affidavit stating the relevant facts.

12 [~~(b) If the election covers territory in more than one~~
13 ~~county, the registrar shall also deliver an affidavit to the~~
14 ~~attorney general.]~~

15 SECTION 2.05. Section 16.0332 , Election Code, is amended
16 by amending Subsection (a) and adding Subsections (a-1), (d), and
17 (e) to read as follows:

18 (a) After the registrar receives notification [~~a list~~]
19 under Subsection (a-1) of this section, Section 18.068 of this
20 code, or Section 62.113 , Government Code, of persons excused or
21 disqualified from jury service because of citizenship status or
22 notification of persons who indicate a lack of citizenship status
23 in connection with a motor vehicle or Department of Public Safety
24 record as provided by Subsection (a-1), the registrar shall deliver
25 to each registered voter whose name appears on the list a written
26 notice requiring the voter to submit to the registrar proof of
27 United States citizenship in the form of a certified copy of the

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1 voter 's birth certificate, United States passport, or certificate
2 of naturalization or any other form prescribed by the secretary of
3 state. The notice shall be delivered by forwardable mail to the
4 mailing address on the voter 's registration application and to any
5 new address of the voter known to the registrar.

6 (a-1) The secretary of state shall enter into an agreement
7 with the Department of Public Safety under which information in the
8 existing statewide computerized voter registration list is
9 compared against information in the database of the Department of
10 Public Safety on a monthly basis to verify the accuracy of
11 citizenship status information previously provided on voter
12 registration applications. In comparing information under this
13 subsection, the secretary of state shall consider only a voter 's
14 information in the database of the Department of Public Safety that
15 was derived from documents presented by the voter to the department
16 after the person 's current voter registration became effective, and
17 may not consider information derived from documents presented by
18 the voter to the department before the person 's current voter
19 registration became effective.

20 (d) The secretary of state shall prescribe rules for the
21 administration of this section.

22 (e) Not later than December 31 of each year, the secretary
23 of state shall provide a report to the legislature of the number of
24 voter registrations canceled under this section during the calendar
25 year.

26 SECTION 2.06. Section 18.065 , Election Code, is amended by
27 adding Subsections (e), (f), (g), (h), and (i) to read as follows:

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1 (e) If the secretary of state determines that a voter
 2 registrar is not in substantial compliance with a requirement
 3 imposed on the registrar by a provision or rule described in
 4 Subsection (a), the secretary of state shall:

5 (1) for the first violation, require the registrar to
 6 attend a training course under Subsection (h);

7 (2) for the second violation, audit the voter
 8 registration list for the county in which the registrar serves to
 9 determine the actions needed to achieve substantial compliance
 10 under Subsection (a) and provide the results of the audit to the
 11 registrar; or

12 (3) for a third or subsequent violation, if the
 13 secretary of state determines that the registrar has not performed
 14 any overt actions in pursuance of compliance with the actions
 15 identified under Subdivision (2) as necessary for the registrar to
 16 achieve substantial compliance under Subsection (a) within 14 days
 17 of receiving the results of the audit conducted under that
 18 subsection, inform the attorney general that the county which the
 19 registrar serves may be subject to a civil penalty under Subsection
 20 (f).

21 (f) A county is liable to this state for a civil penalty of
 22 \$1,000 for each day after the 14th day following the receipt of the
 23 results of the audit conducted under Subsection (e)(2) that the
 24 county 's voter registrar fails to take overt action to comply with
 25 the actions identified under that subsection as necessary for the
 26 registrar to achieve substantial compliance under Subsection (a).
 27 The attorney general may bring an action to recover a civil penalty

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1 imposed under this section.

2 (g) A civil penalty collected by the attorney general under
 3 this section shall be deposited in the state treasury to the credit
 4 of the general revenue fund.

5 (h) The secretary of state shall develop and implement a
 6 training course for registrars on substantial compliance with
 7 Sections 15.083 , 16.032 , and 18.061 and with rules implementing the
 8 statewide computerized voter registration list.

9 (i) The secretary of state shall adopt rules and prescribe
 10 procedures for the implementation of this section.

11 SECTION 2.07. Section 18.068 , Election Code, is amended by
 12 amending Subsection (a) and adding Subsection (a-1) to read as
 13 follows:

14 (a) The secretary of state shall quarterly compare the
 15 information received under Section 16.001 of this code and Sections
 16 ~~[Section]~~ 62.113 and 62.114 , Government Code, to the statewide
 17 computerized voter registration list. If the secretary determines
 18 that a voter on the registration list is deceased or has been
 19 excused or disqualified from jury service because the voter is not a
 20 citizen or a resident of the county in which the voter is registered
 21 to vote, the secretary shall send notice of the determination
 22 to the voter registrar of the counties considered appropriate by
 23 the secretary.

24 (a-1) The secretary of state is not required to send notice
 25 under Subsection (a) for a voter who is subject to an exemption from
 26 jury service under Section 62.106 , Government Code, if that
 27 exemption is the only reason the voter is excused from jury service.

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SECTION 2.08. Section 31.006 , Election Code, is amended to read as follows:

Sec. 31.006. REFERRAL ~~[OF COMPLAINT]~~ TO ATTORNEY GENERAL.

(a) If, after receiving or discovering information indicating that ~~[a complaint alleging]~~ criminal conduct in connection with an election has occurred, the secretary of state determines that there is reasonable cause to suspect that ~~[the alleged]~~ criminal conduct occurred, the secretary shall promptly refer the information ~~[complaint]~~ to the attorney general. The secretary shall deliver to the attorney general all pertinent documents and information in the secretary 's possession.

(b) The documents and information submitted under Subsection (a) are not considered public information until:

(1) the secretary of state makes a determination that the information ~~[complaint]~~ received does not warrant an investigation; or

(2) if referred to the attorney general, the attorney general has completed the investigation or has made a determination that the information ~~[complaint]~~ referred does not warrant an investigation.

SECTION 2.09. Subchapter B, Chapter 87, Election Code, is amended by adding Section 87.028 to read as follows:

Sec. 87.028. ACCESS TO INFORMATION. (a) On request, a county election official shall provide to a member of an early voting ballot board all available information necessary to fulfilling the functions of the board, including any information from the statewide computerized voter registration list under

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1 Section 18.061 .

2 (b) On request, a county election official shall provide to
 3 a member of a signature verification committee all available
 4 information necessary to fulfilling the functions of the committee,
 5 including any information from the statewide computerized voter
 6 registration list under Section 18.061 .

7 (c) The secretary of state shall adopt rules as necessary to
 8 prevent a member of an early voting ballot board or signature
 9 verification committee from retaining or sharing personally
 10 identifiable information from the statewide computerized voter
 11 registration list under Section 18.061 obtained under this section
 12 for any reason unrelated to the official 's official duties.

13 SECTION 2.10. Section 62.113 (b), Government Code, is
 14 amended to read as follows:

15 (b) On the third business day of each month, the clerk shall
 16 send a copy of the list of persons excused or disqualified because
 17 of citizenship in the previous month to:

18 (1) the voter registrar of the county;

19 (2) the secretary of state; and

20 (3) the county or district attorney[, ~~as applicable,~~]

21 for an investigation of whether the person committed an offense
 22 under Section 13.007 , Election Code, or other law.

23 SECTION 2.11. Sections 62.114 (b) and (c), Government Code,
 24 are amended to read as follows:

25 (b) On the third business day of each month, the clerk shall
 26 send [~~to the voter registrar of the county~~] a copy of the list of
 27 persons excused or disqualified in the previous month because the

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persons do not reside in the county to:

(1) the voter registrar of the county; and

(2) the secretary of state.

(c) A list compiled under this section may not be used for a purpose other than a purpose described by Subsection (b) or Section 15.081 or 18.068, Election Code.

ARTICLE 3. CONDUCT AND SECURITY OF ELECTIONS

SECTION 3.01. Section 2.053 (a), Election Code, is amended to read as follows:

(a) On receipt of the certification, the governing body of the political subdivision by order or ordinance shall ~~[may]~~ declare each unopposed candidate elected to the office. If no election is to be held on election day by the political subdivision, a copy of the order or ordinance shall be posted on election day at each polling place used or that would have been used in the election.

SECTION 3.02. Section 2.056 (c), Election Code, is amended to read as follows:

(c) A certifying authority shall ~~[may]~~ declare a candidate elected to an office of the state or county government if, were the election held, only the votes cast for that candidate in the election for that office may be counted.

SECTION 3.03. Sections 43.007 (c) and (d), Election Code, are amended to read as follows:

(c) In conducting the program, the secretary of state shall provide for an audit of the voting system equipment ~~[direct recording electronic voting units]~~ before and after the election, and during the election to the extent such an audit is practicable.

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(d) The secretary of state shall select to participate in the program each county that:

(1) has held a public hearing under Subsection (b);

(2) has submitted documentation listing the steps taken to solicit input on participating in the program by organizations or persons who represent the interests of voters;

(3) has implemented a computerized voter registration list that allows an election officer at the polling place to verify that a voter has not previously voted in the election;

(4) uses direct recording electronic voting machines, ballot marking devices, or hand-marked scannable paper ballots that are printed and scanned at the polling place or any other type of voting system equipment that the secretary of state determines is capable of processing votes for each type of ballot to be voted in the county; and

(5) is determined by the secretary of state to have the appropriate technological capabilities.

SECTION 3.04. Section 43.031 (b), Election Code, is amended to read as follows:

(b) Each polling place shall be located inside a building. No voter may cast a vote from inside a motor vehicle unless the voter meets the requirements of Section 64.009 .

SECTION 3.05. Section 52.092 (a), Election Code, is amended to read as follows:

(a) Except as provided by Section 2.053 (c) or 2.056 (e), for ~~For~~ an election at which offices regularly filled at the general election for state and county officers are to appear on the ballot,

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1 the offices shall be listed in the following order:

2 (1) offices of the federal government;

3 (2) offices of the state government:

4 (A) statewide offices;

5 (B) district offices;

6 (3) offices of the county government:

7 (A) county offices;

8 (B) precinct offices.

9 SECTION 3.06. Section 61.002 , Election Code, is amended to
10 read as follows:

11 Sec. 61.002. OPENING AND CLOSING POLLING PLACE FOR VOTING.

12 (a) Immediately before opening the polls for voting on the first
13 day of early voting and on election day, the presiding election
14 judge or alternate election judge shall confirm that each voting
15 machine has any public counter reset to zero and shall print the
16 tape that shows the counter was set to zero for each candidate or
17 measure on the ballot.

18 (b) At the official time for opening the polls for voting,
19 an election officer shall open the polling place entrance and admit
20 the voters.

21 (c) Immediately after closing the polls for voting on
22 election day, the presiding election judge or alternate election
23 judge shall print the tape to show the number of votes cast for each
24 candidate or ballot measure for each voting machine.

25 (d) Each election judge or alternate election judge present
26 shall sign a tape printed under this section.

27 SECTION 3.07. Section 64.007 (c), Election Code, is amended

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1 to read as follows:

2 (c) An election officer shall maintain a register of spoiled
3 ballots at the polling place. An election officer shall enter on
4 the register the name of each voter who returns a spoiled ballot and
5 the spoiled ballot 's number. The secretary of state shall create
6 and promulgate a form to be used for this purpose.

7 SECTION 3.08. Subchapter A, Chapter 66, Election Code, is
8 amended by adding Section 66.004 to read as follows:

9 Sec. 66.004. POLLING PLACE CHECKLISTS. The secretary of
10 state shall adopt rules and create a checklist or similar
11 guidelines to assist the presiding judge of a polling place in
12 processing forms and conducting procedures required by this code at
13 the opening and closing of the polling place.

14 SECTION 3.09. Section 85.005, Election Code, is amended to
15 read as follows:

16 Sec. 85.005. REGULAR DAYS AND HOURS FOR VOTING. (a) Except
17 as provided by Subsection (c), in an election in which a county
18 clerk ~~[or city secretary]~~ is the early voting clerk under Section
19 83.002 ~~[or 83.005]~~, early voting by personal appearance at the main
20 early voting polling place shall be conducted on each weekday of
21 [the weekdays of] the early voting period that is not a legal state
22 holiday and for a period of at least nine hours, except that voting
23 may not be conducted earlier than 6 a.m. or later than 10 p.m.
24 ~~[during the hours that the county clerk 's or city secretary 's main~~
25 ~~business office is regularly open for business.]~~

26 (b) In an election to which Subsection (a) does not apply,
27 early voting by personal appearance at the main early voting

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1 polling place shall be conducted at least nine ~~[eight]~~ hours each
 2 weekday of the early voting period that is not a legal state holiday
 3 unless the territory covered by the election has fewer than 1,000
 4 registered voters. In that case, the voting shall be conducted at
 5 least four ~~[three]~~ hours each day. The authority ordering the
 6 election, or the county clerk if that person is the early voting
 7 clerk, shall determine which hours the voting is to be conducted.

8 (c) In a county with a population of 55,000 ~~[100,000]~~ or
 9 more, the voting in a primary election or the general election for
 10 state and county officers shall be conducted at the main early
 11 voting polling place for at least 12 hours on each weekday of the
 12 last week of the early voting period, and the voting in a special
 13 election ordered by the governor shall be conducted at the main
 14 early voting polling place for at least 12 hours on each of the last
 15 two days of the early voting period. Voting under this subsection
 16 may not be conducted earlier than 6 a.m. or later than 10 p.m.

17 Voting shall be conducted in accordance with this subsection in
 18 those elections in a county with a population under 55,000
 19 ~~[100,000]~~ on receipt by the early voting clerk of a written request
 20 for the extended hours submitted by at least 15 registered voters of
 21 the county. The request must be submitted in time to enable
 22 compliance with Section 85.067 .

23 (d) A voter who has not voted before the scheduled time for
 24 closing a polling place is entitled to vote after that time if the
 25 voter is in line at the polling place by closing time. The
 26 secretary of state shall promulgate any materials and provide any
 27 training to presiding judges necessary to properly process voters

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under this subsection ~~[In an election ordered by a city, early voting by personal appearance at the main early voting polling place shall be conducted for at least 12 hours:~~

~~[(1) on one weekday, if the early voting period consists of less than six weekdays; or~~

~~[(2) on two weekdays, if the early voting period consists of six or more weekdays].~~

SECTION 3.10. Sections **85.006** (b) and (e), Election Code, are amended to read as follows:

(b) In an election in which a county clerk ~~[or city secretary]~~ is the early voting clerk under Section **83.002** ~~[or 83.005]~~, only the early voting clerk may order voting on a Saturday or Sunday. The clerk must do so by written order.

(e) In a primary election or the general election for state and county officers in a county with a population of 55,000 ~~[100,000]~~ or more, the early voting clerk shall order voting by personal appearance ~~[voting]~~ at the main early voting polling place to be conducted on the last Saturday of the early voting period for at least 12 hours, except that voting may not be conducted earlier than 6 a.m. or later than 10 p.m., ~~[on the last Saturday]~~ and on the last Sunday of the early voting period for at least six ~~[five]~~ hours, except that voting may not be conducted earlier than 9 a.m. or later than 10 p.m. ~~[on the last Sunday of the early voting period]~~. The early voting clerk shall order voting to be conducted at those times in those elections in a county with a population under 55,000 ~~[100,000]~~ on receipt of a written request for those hours submitted by at least 15 registered voters of the county. The

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request must be submitted in time to enable compliance with Section 85.007 . This subsection supersedes any provision of this subchapter to the extent of any conflict.

SECTION 3.11. Section 85.010 (a-1), Election Code, is amended to read as follows:

(a-1) In this section, "eligible county polling place" means an early voting polling place[, ~~other than a polling place established under Section 85.062 (c),~~] established by a county.

SECTION 3.12. Section 85.061 (a), Election Code, is amended to read as follows:

(a) In a countywide election in which the county clerk is the early voting clerk under Section 83.002 , an early voting polling place shall be located inside ~~at~~ each branch office that is regularly maintained for conducting general clerical functions of the county clerk, except as provided by Subsection (b). If a suitable room is unavailable inside the branch office, the polling place may be located in another room inside the same building as the branch office.

SECTION 3.13. Section 85.062 , Election Code, is amended by amending Subsection (b) and adding Subsection (f-1) to read as follows:

(b) A polling place established under this section may be located, subject to Subsection (d), at any place in the territory served by the early voting clerk and may be located inside ~~in~~ any building ~~[stationary structure]~~ as directed by the authority establishing the branch office. The polling place may not be located in a movable structure in the general election for state and

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1 county officers, general primary election, or runoff primary
 2 election. Ropes or other suitable objects may be used at the
 3 polling place to ensure compliance with Section 62.004 . Persons
 4 who are not expressly permitted by law to be in a polling place
 5 shall be excluded from the polling place to the extent practicable.

6 (f-1) Notwithstanding any other provision of this section
 7 concerning the location of temporary branch polling places, in an
 8 election in which countywide polling places are used, the
 9 commissioners court of a county shall employ the same methodology
 10 it uses to determine the location of countywide polling places to
 11 determine the location of temporary branch polling places.

12 SECTION 3.14. Section 87.002 , Election Code, is amended to
 13 read as follows:

14 Sec. 87.002. COMPOSITION OF BOARD. (a) The early voting
 15 ballot board consists of a presiding judge, an alternate presiding
 16 judge, and at least one ~~[two]~~ other member ~~[members]~~.

17 (b) Except as provided by Subsection (d), the presiding
 18 judge and the alternate presiding judge are ~~[is]~~ appointed in the
 19 same manner as a presiding election judge and alternate presiding
 20 election judge, respectively. Except as provided by Subsection

21 (c), each ~~[the]~~ other member is ~~[members are]~~ appointed by the
 22 presiding judge in the same manner as the precinct election clerks.

23 (c) In the general election for state and county officers,
 24 each county chair of a political party with nominees on the general
 25 election ballot shall submit to the county election board a list of
 26 names of persons eligible to serve on the early voting ballot board
 27 in order of the county chair 's preference. The county election

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board shall appoint at least one person from each list to serve as a member of the early voting ballot board. The same number of members must be appointed from each list. The county election board shall appoint persons as members of the early voting ballot board in the order of preference indicated on each list.

(d) In addition to the members appointed under Subsection (c), the county election board shall appoint as the presiding judge the highest-ranked person on ~~[from]~~ the list provided under that subsection by the political party whose nominee for governor received the most votes in the county in the most recent gubernatorial general election and as the alternate presiding judge the highest-ranked person on the list provided under that subsection by the political party whose nominee for governor received the second most votes in the county in the most recent gubernatorial general election.

SECTION 3.15. Section 124.002, Election Code, is amended by adding Subsection (c) to read as follows:

(c) Voting system ballots may not be arranged in a manner that allows a political party's candidates to be selected in one motion or gesture.

SECTION 3.16. Sections 127.006 (a) and (c), Election Code, are amended to read as follows:

(a) The ~~[Both the]~~ manager, and ~~[and]~~ the presiding judge, and the alternate presiding judge may appoint clerks to serve at the central counting station.

(c) A clerk appointed by the manager serves under the manager and shall perform the functions directed by the manager. A

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1 clerk appointed by the presiding judge or the alternate presiding
 2 judge serves under the presiding judge and shall perform the
 3 functions directed by the presiding judge.

4 SECTION 3.17. Subchapter A, Chapter 127, Election Code, is
 5 amended by adding Section 127.009 to read as follows:

6 Sec. 127.009. ELECTRONIC DEVICES IN CENTRAL COUNTING
 7 STATION. (a) A counting station manager and the presiding judge of
 8 the counting station shall develop a protocol under which any
 9 electronic device inside a central counting station that is
 10 necessary to count votes is equipped with software that tracks all
 11 input and activity on the electronic device.

12 (b) The counting station manager and the presiding judge of
 13 the counting station shall ensure that the input and activity
 14 tracked by the software is delivered to the secretary of state not
 15 later than the fifth day after vote counting is complete.

16 (c) This section applies only to a central counting station
 17 located in a county with a population of 250,000 or more.

18 SECTION 3.18. Section 127.1232, Election Code, is amended
 19 to read as follows:

20 Sec. 127.1232. SECURITY OF VOTED BALLOTS. (a) The general
 21 custodian of election records shall post a licensed peace officer
 22 [guard] to ensure the security of ballot boxes containing voted
 23 ballots throughout the period of tabulation at the central counting
 24 station.

25 (b) The general custodian of election records in a county
 26 with a population of 100,000 or more shall implement a video
 27 surveillance system that retains a record of all areas containing

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1 voted ballots:

2 (1) from the time the voted ballots are delivered to
 3 the central counting station until the canvass of precinct election
 4 returns; and

5 (2) from the time the voted ballots are delivered to
 6 the signature verification committee or early voting ballot board
 7 until the canvass of precinct election returns.

8 (c) A video from a system implemented under Subsection (b)
 9 shall be made available to the public by a livestream.

10 (d) The video recorded is an election record under Section
 11 1.012 and shall be retained by the general custodian of election
 12 records until the end of the calendar year in which an election is
 13 held or until an election contest filed in the county has been
 14 resolved, whichever is later.

15 SECTION 3.19. Chapter 127, Election Code, as effective
 16 September 1, 2021, is amended by adding Subchapter J to read as
 17 follows:

18 SUBCHAPTER J. RANDOMIZED AUDITS

19 Sec. 127.351. RANDOMIZED COUNTY AUDITS. (a) Immediately
 20 after the uniform election date in November of an even-numbered
 21 year, the secretary of state shall conduct an audit of the elections
 22 held in four counties during the previous two years.

23 (b) The secretary of state shall select the counties to be
 24 audited under Subsection (a) at random, except that:

25 (1) two of the counties selected must have a total
 26 population of less than 300,000;

27 (2) two of the counties selected must have a total

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1 population of 300,000 or more; and

2 (3) a county selected in the most recent audit cycle
 3 may not be selected in the current audit cycle.

4 (c) A county selected to be audited may not pay the cost of
 5 performing an audit under this section.

6 (d) The secretary of state shall adopt rules as necessary to
 7 implement this section.

8 ARTICLE 4. ELECTION OFFICERS AND OBSERVERS

9 SECTION 4.01. Section 32.075, Election Code, is amended by
 10 adding Subsections (g) and (h) to read as follows:

11 (g) A presiding judge may not have a watcher duly accepted
 12 for service under Subchapter A, Chapter 33, removed from the
 13 polling place for violating a provision of this code or any other
 14 provision of law relating to the conduct of elections, other than a
 15 violation of the Penal Code, unless the violation was observed by an
 16 election judge or clerk.

17 (h) Notwithstanding Subsection (g), a presiding judge may
 18 call a law enforcement officer to request that a poll watcher be
 19 removed if the poll watcher commits a breach of the peace or a
 20 violation of law.

21 SECTION 4.02. Subchapter A, Chapter 33, Election Code, is
 22 amended by adding Section 33.0015 to read as follows:

23 Sec. 33.0015. CHAPTER PURPOSE AND WATCHER DUTY. The
 24 purpose of this chapter is to preserve the integrity of the ballot
 25 box in accordance with Section 4, Article VI, Texas Constitution,
 26 by providing for the appointment of watchers. It is the intent of
 27 the legislature that watchers duly accepted for service under this

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chapter be allowed to observe and report on irregularities in the conduct of any election, but may not interfere in the orderly conduct of an election. To effect that purpose, a watcher appointed under this chapter shall observe without obstructing the conduct of an election and call to the attention of an election officer any observed or suspected irregularity or violation of law in the conduct of the election.

SECTION 4.03. Subchapter A, Chapter 33, Election Code, is amended by adding Section 33.0016 to read as follows:

Sec. 33.0016. REFERENCES TO EARLY VOTING BALLOT BOARD IN THIS CHAPTER. A reference in this chapter to an early voting ballot board includes a signature verification committee.

SECTION 4.04. Subchapter A, Chapter 33, Election Code, is amended by adding Section 33.008 to read as follows:

Sec. 33.008. TRAINING PROGRAM. The secretary of state shall develop and maintain a training program for watchers. The training program must:

(1) be available:

(A) entirely via the Internet; and

(B) at any time, without a requirement for prior registration; and

(2) provide a watcher who completes the training with a certificate of completion.

SECTION 4.05. Section 33.031, Election Code, is amended by adding Subsection (b) to read as follows:

(b) In addition to the requirements of Subsection (a), to be eligible to serve as a watcher, a person must complete training

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1 under Section 33.008.

2 SECTION 4.06. Section 33.051, Election Code, is amended by
3 amending Subsections (a), (b), (d), and (e) and adding Subsections
4 (a-1), (g), and (h) to read as follows:

5 (a) A watcher appointed to serve at a precinct polling
6 place, a meeting place for an early voting ballot board, or a
7 central counting station must deliver the following materials [~~a~~
8 ~~certificate of appointment~~] to the presiding judge at the time the
9 watcher reports for service: __

10 (1) a certificate of appointment; and

11 (2) a certificate of completion from training

12 completed by the watcher under Section 33.008.

13 (a-1) A watcher appointed to serve at an early voting
14 polling place must deliver the certificates under Subsection (a) [~~a~~
15 ~~certificate of appointment~~] to the early voting clerk or deputy
16 clerk in charge of the polling place when the watcher first reports
17 for service.

18 (b) The officer presented with a watcher 's certificates
19 [~~certificate of appointment~~] shall require the watcher to
20 countersign the certificate of appointment to ensure that the
21 watcher is the same person who signed the certificate of
22 appointment. Except as provided by Subsection (c), a watcher who
23 presents himself or herself at the proper time with the
24 certificates required under Subsection (a) [~~a certificate of~~
25 ~~appointment~~] shall be accepted for service unless the person is
26 ineligible to serve or the number of appointees to which the
27 appointing authority is entitled have already been accepted.

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(d) The certificates ~~[certificate]~~ of a watcher serving at an early voting polling place shall be retained at the polling place until voting at the polling place is concluded. At each subsequent time that the watcher reports for service, the watcher shall inform the clerk or deputy in charge. The officer may require the watcher to sign the watcher 's name in the officer 's presence, for comparison with the signature on the certificate of appointment, if the officer is uncertain of the watcher 's identity.

(e) If a watcher is not accepted for service, the certificates ~~[certificate of appointment]~~ shall be returned to the watcher with a signed statement of the reason for the rejection.

(g) An election officer commits an offense if the officer intentionally or knowingly refuses to accept a watcher for service when acceptance of the watcher is required by this section. An offense under this subsection is a Class A misdemeanor.

(h) Before accepting a watcher, the officer presented with a watcher 's certificate of appointment shall require the watcher to take the following oath, administered by the officer: "I swear (or affirm) that I will not disrupt the voting process or harass voters in the discharge of my duties."

SECTION 4.07. Section 33.056 , Election Code, is amended by amending Subsection (a) and adding Subsections (e) and (f) to read as follows:

(a) Except as provided by Section 33.057 , a watcher is entitled to observe any activity conducted at the location at which the watcher is serving. A watcher is entitled to sit or stand ~~[conveniently]~~ near enough to see and hear the election officers

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conducting the observed activity, except as otherwise prohibited by this chapter.

(e) Except as provided by Section 33.057 (b), a watcher may not be denied free movement where election activity is occurring within the location at which the watcher is serving.

(f) In this code, a watcher who is entitled to "observe" an election activity is entitled to sit or stand near enough to see and hear the activity.

SECTION 4.08. Subchapter C, Chapter 33, Election Code, is amended by adding Section 33.0605 to read as follows:

Sec. 33.0605. OBSERVING DATA STORAGE SEALING AND TRANSFER.

(a) A watcher appointed to serve at a polling place in an election who is available at the time of the action may observe all election activities relating to closing the polling place, including the sealing and transfer of a memory card, flash drive, hard drive, data storage device, or other medium now existing or later developed used by the voting system equipment.

(b) Notwithstanding any other provision of this code, a watcher duly accepted for service at a polling location is entitled to follow the transfer of election materials from the polling place at which the watcher was accepted to a regional tabulating center, the central counting station, or any other location designated to process election materials. The authority responsible for administering a regional tabulating center or another location where election materials are processed must accept duly appointed watchers for service in the same manner a watcher is accepted for service under Section 33.051 and must accept the same number of

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1 watchers that may serve under Section 33.007 (a).

2 SECTION 4.09. Section 33.061 (a), Election Code, is amended
3 to read as follows:

4 (a) A person commits an offense if the person serves in an
5 official capacity at a location at which the presence of watchers is
6 authorized and knowingly prevents a watcher from observing an
7 activity or procedure the person knows the watcher is entitled to
8 observe, including by taking any action to obstruct the view of a
9 watcher or distance the watcher from the activity or procedure to be
10 observed in a manner that would make observation not reasonably
11 effective.

12 SECTION 4.10. Subchapter C, Chapter 33, Election Code, is
13 amended by adding Section 33.063 to read as follows:

14 Sec. 33.063. RELIEF. The appointing authority for a
15 watcher who believes that the watcher was unlawfully prevented or
16 obstructed from the performance of the watcher 's duties may seek:

17 (1) injunctive relief under Section 273.081 ,
18 including issuance of temporary orders;

19 (2) a writ of mandamus under Section 161.009 or
20 273.061 ; and

21 (3) any other remedy available under law.

22 SECTION 4.11. Section 34.005 , Election Code, is amended to
23 read as follows:

24 Sec. 34.005. ACTION BY SECRETARY OF STATE. (a) The
25 secretary of state may refer a reported violation of law for
26 appropriate action to the attorney general, if the attorney general
27 has jurisdiction, or to a prosecuting attorney having jurisdiction.

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1 (b) If the secretary of state believes that a state
 2 inspector was unlawfully prevented or obstructed from the
 3 performance of the inspector 's duties, the secretary of state may
 4 seek:

5 (1) injunctive relief under Section 273.081 ,
 6 including issuance of temporary orders;

7 (2) a writ of mandamus under Section 161.009 or
 8 273.061 ; and

9 (3) any other remedy available under law.

10 SECTION 4.12. Section 86.006 , Election Code, is amended by
 11 amending Subsection (a) and adding Subsection (a-2) to read as
 12 follows:

13 (a) A marked ballot voted under this chapter must be
 14 returned to the early voting clerk in the official carrier
 15 envelope. The carrier envelope may be delivered in another
 16 envelope and must be transported and delivered only by:

17 (1) mail;
 18 (2) common or contract carrier; or
 19 (3) subject to Subsections ~~[Subsection]~~ (a-1) and
 20 (a-2), in-person delivery by the voter who voted the ballot.

21 (a-2) An in-person delivery of a marked ballot voted under
 22 this chapter must be received by an election official at the time of
 23 delivery. The receiving official shall record the voter 's name,
 24 signature, and type of identification provided under Section
 25 63.0101 on a roster prescribed by the secretary of state. The
 26 receiving official shall attest on the roster that the delivery
 27 complies with this section.

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SECTION 4.13. Chapter 121, Election Code, is amended by adding Section 121.004 to read as follows:

Sec. 121.004. COMMUNICATIONS WITH VOTING SYSTEMS VENDOR PUBLIC INFORMATION. (a) Except as provided by Subsection (b), a written letter, e-mail, or other communication, including a communication made confidential by other law, between a public official and a voting systems vendor:

(1) is not confidential;

(2) is public information for purposes of Chapter 552, Government Code; and

(3) is not subject to an exception to disclosure provided by Chapter 552, Government Code, other than Sections 552.110 and 552.1101, Government Code.

(b) A written letter, e-mail, or other communication between a public official and a voting systems vendor is excepted from disclosure under Chapter 552, Government Code, if the communication discloses information, data, or records relating to the security of elections critical infrastructure.

SECTION 4.14. Section 127.1301, Election Code, is amended to read as follows:

Sec. 127.1301. ~~[TALLYING, TABULATING, AND REPORTING]~~
CENTRALLY COUNTED OPTICAL SCAN BALLOTS ~~[BALLOT UNDERVOTES AND OVERVOTES]~~. (a) In an election using centrally counted optical scan ballots, the undervotes and overvotes on those ballots shall be tallied, tabulated, and reported by race and by election precinct in the form and manner prescribed by the secretary of state.

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1 (b) An authority operating a central counting station under
 2 this chapter may not purchase or use a centrally counted optical
 3 ballot scan system that uses a data storage disc on which
 4 information, once written, is capable of being modified.

5 (c) An authority that purchases system components in order
 6 to comply with this section is eligible to have 100 percent of the
 7 cost of those system components reimbursed.

8 (d) Subsection (b) applies starting on the earlier of:

9 (1) the date on which the state certifies the first
 10 centrally counted optical ballot scan system under this section; or

11 (2) September 1, 2026.

12 (e) This subsection and Subsection (d) expire October 1,
 13 2026.

14 SECTION 4.15. Section 127.131 , Election Code, is amended by
 15 adding Subsection (f) to read as follows:

16 (f) The presiding judge of the central counting station
 17 shall provide and attest to a written reconciliation of votes and
 18 voters at the close of tabulation for election day and again after
 19 the central counting station meets for the last time to process
 20 late-arriving ballots by mail and provisional ballots. The
 21 secretary of state shall create and promulgate rules and a form to
 22 facilitate compliance with this subsection. The form shall be
 23 posted on a website maintained by the county along with election
 24 returns and results.

25 SECTION 4.16. Section 129.023 , Election Code, is amended by
 26 adding Subsections (b-2) and (c-1) to read as follows:

27 (b-2) If the test is being conducted for an election in

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1 which a county election board has been established under Section
 2 51.002 , the general custodian of election records shall notify each
 3 member of the board of the test at least 48 hours before the date of
 4 the test. If the county election board chooses to witness the test,
 5 each member shall sign the statement required by Subsection (e)(1).

6 (c-1) A test conducted under this section must also require
 7 the general custodian of election records to demonstrate, using a
 8 representative sample of voting system equipment, that the source
 9 code of the equipment has not been altered.

ARTICLE 5. VOTING BY MAIL

11 SECTION 5.01. Section 84.001 (b), Election Code, is amended
 12 to read as follows:

13 (b) Subject to Section 1.011 , an [An] application must be
 14 submitted in writing and signed by the applicant using ink on paper.
 15 An electronic signature or photocopied signature is not permitted.

16 SECTION 5.02. Section 84.002 , Election Code, as effective
 17 September 1, 2021, is amended by amending Subsection (a) and adding
 18 Subsection (b-1) to read as follows:

19 (a) An early voting ballot application must include:

20 (1) the applicant 's name and the address at which the
 21 applicant is registered to vote;

22 (1-a) the following information:

23 (A) the number of the applicant 's driver 's
 24 license, election identification certificate, or personal
 25 identification card issued by the Department of Public Safety;

26 (B) if the applicant has not been issued a number
 27 described by Paragraph (A), the last four digits of the applicant 's

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1 social security number; or

2 (C) a statement by the applicant that the
3 applicant has not been issued a number described by Paragraph (A) or
4 (B);

5 (2) for an application for a ballot to be voted by mail
6 on the ground of absence from the county of residence, the address
7 outside the applicant 's county of residence to which the ballot is
8 to be mailed;

9 (3) for an application for a ballot to be voted by mail
10 on the ground of age or disability, the address of the hospital,
11 nursing home or other long-term care facility, or retirement
12 center, or of a person related to the applicant within the second
13 degree by affinity or the third degree by consanguinity, as
14 determined under Chapter 573 , Government Code, if the applicant is
15 living at that address and that address is different from the
16 address at which the applicant is registered to vote;

17 (4) for an application for a ballot to be voted by mail
18 on the ground of confinement in jail, the address of the jail or of a
19 person related to the applicant within the degree described by
20 Subdivision (3);

21 (5) for an application for a ballot to be voted by mail
22 on any ground, an indication of each election for which the
23 applicant is applying for a ballot;

24 (6) an indication of the ground of eligibility for
25 early voting; and

26 (7) for an application for a ballot to be voted by mail
27 on the ground of involuntary civil commitment, the address of the

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1 facility operated by or under contract with the Texas Civil
 2 Commitment Office or of a person related to the applicant within the
 3 degree of consanguinity described by Subdivision (3).

4 (b-1) A person may use the number of a driver 's license,
 5 election identification certificate, or personal identification
 6 card that has expired for the purpose of fulfilling the requirement
 7 under Subsection (a)(1-a) if the license or identification is
 8 otherwise valid.

9 SECTION 5.03. Section 84.011 (a), Election Code, as
 10 effective September 1, 2021, is amended to read as follows:

11 (a) The officially prescribed application form for an early
 12 voting ballot must include:

13 (1) immediately preceding the signature space the
 14 statement: "I certify that the information given in this
 15 application is true, and I understand that giving false information
 16 in this application is a crime.";

17 (2) a statement informing the applicant of the
 18 offenses prescribed by Sections 84.003 and 84.004 ;

19 (3) spaces for entering an applicant 's voter
 20 registration number and county election precinct of registration,
 21 with a statement informing the applicant that failure to furnish
 22 that information does not invalidate the application;

23 (3-a) a space for entering the information required
 24 under Section 84.002 (a)(1-a); and

25 (4) on an application for a ballot to be voted by mail:

26 (A) a space for an applicant applying on the
 27 ground of absence from the county of residence to indicate the date

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1 on or after which the applicant can receive mail at the address
2 outside the county;

3 (B) a space for indicating the fact that an
4 applicant whose application is signed by a witness cannot make the
5 applicant 's mark and a space for indicating the relationship or
6 lack of relationship of the witness to the applicant;

7 (C) a space for entering an applicant 's telephone
8 number, with a statement informing the applicant that failure to
9 furnish that information does not invalidate the application;

10 (D) a space or box for an applicant applying on
11 the ground of age or disability to indicate that the address to
12 which the ballot is to be mailed is the address of a facility or
13 relative described by Section 84.002 (a)(3), if applicable;

14 (E) a space or box for an applicant applying on
15 the ground of confinement in jail or involuntary civil commitment
16 to indicate that the address to which the ballot is to be mailed is
17 the address of a relative described by Section 84.002 (a)(4) or (7),
18 if applicable;

19 (F) a space for an applicant applying on the
20 ground of age or disability to indicate if the application is an
21 application under Section 86.0015 ;

22 (G) spaces for entering the signature, printed
23 name, and residence address of any person assisting the applicant;

24 (H) a statement informing the applicant of the
25 condition prescribed by Section 81.005 ; and

26 (I) a statement informing the applicant of the
27 requirement prescribed by Section 86.003 (c).

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SECTION 5.04. Subchapter [A](#), Chapter [84](#), Election Code, is amended by adding Section 84.0111 to read as follows:

Sec. 84.0111. DISTRIBUTION OF APPLICATION FORM. (a)
Except as provided by Subsection (c) or as otherwise authorized by
this code, an officer or employee of this state or of a political
subdivision of this state may not distribute an application form
for an early voting ballot to a person who did not request an
application under Section [84.001](#) .

(b) An officer or employee of this state or of a political
subdivision of this state may not use public funds to facilitate the
distribution by another person of an application form for an early
voting ballot to a person who did not request an application under
Section [84.001](#) .

(c) A political party or a candidate for office may
distribute an application form for an early voting ballot to a
person who did not request an application under Section [84.001](#) .

SECTION 5.05. Section [84.032](#) (c), Election Code, is amended to read as follows:

(c) An applicant may submit a request after the close of early voting by personal appearance by appearing in person and:

(1) returning the ballot to be voted by mail to the early voting clerk; or

(2) executing an affidavit that the applicant:

(A) has not received the ballot to be voted by mail; ~~or~~

(B) never requested a ballot to be voted by mail; or

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1 (C) received notice of a defect under Section
 2 87.0271(b) or (c) or 87.0411(b) or (c).

3 SECTION 5.06. Section 84.035 , Election Code, is amended to
 4 read as follows:

5 Sec. 84.035. BALLOT SENT TO APPLICANT. (a) If the early
 6 voting clerk cancels an application by an applicant to whom an early
 7 voting ballot has been sent, the clerk shall:

8 (1) remove the applicant 's name from the early voting
 9 roster; and

10 (2) make any other entries in the records and take any
 11 other action necessary to prevent the ballot from being counted if
 12 returned.

13 (b) An election judge may permit a person to whom an early
 14 voting ballot has been sent who cancels the person 's application
 15 for a ballot to be voted by mail in accordance with Section 84.032
 16 but fails to return the ballot to be voted by mail to the early
 17 voting clerk, deputy early voting clerk, or presiding judge as
 18 provided by that section to vote only a provisional ballot under
 19 Section 63.011 .

20 SECTION 5.07. Section 86.001 , Election Code, is amended by
 21 adding Subsections (f), (f-1), and (f-2) to read as follows:

22 (f) If the information required under Section
 23 84.002 (a) (1-a) included on the application does not identify the
 24 same voter identified on the applicant 's application for voter
 25 registration under Section 13.002 (c) (8), the clerk shall reject the
 26 application.

27 (f-1) If an application is rejected under Subsection (f),

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1 the clerk shall provide notice of the rejection in accordance with
 2 Subsection (c). The notice must include information regarding the
 3 ability to correct or add information required under Section
 4 84.002 (a) (1-a) through the online tool described by Section
 5 86.015 (c).

6 (f-2) If an applicant corrects an application for a ballot
 7 to be voted by mail online and that application subsequently
 8 identifies the same voter identified on the applicant 's application
 9 for voter registration, the clerk shall provide a ballot to the
 10 applicant as provided by this chapter.

11 SECTION 5.08. Section 86.002 , Election Code, is amended by
 12 adding Subsections (g), (h), and (i) to read as follows:

13 (g) The carrier envelope must include a space that is hidden
 14 from view when the envelope is sealed for the voter to enter the
 15 following information:

16 (1) the number of the voter 's driver 's license,
 17 election identification certificate, or personal identification
 18 card issued by the Department of Public Safety;

19 (2) if the voter has not been issued a number described
 20 by Subdivision (1), the last four digits of the voter 's social
 21 security number; or

22 (3) a statement by the applicant that the applicant
 23 has not been issued a number described by Subdivision (1) or (2).

24 (h) A person may use the number of a driver 's license,
 25 election identification certificate, or personal identification
 26 card that has expired for purposes of Subsection (g) if the license
 27 or identification is otherwise valid.

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1 (i) No record associating an individual voter with a ballot
 2 may be created.

3 SECTION 5.09. Section 86.011 (c), Election Code, is amended
 4 to read as follows:

5 (c) If the return is not timely, the clerk shall enter the
 6 time of receipt on the carrier envelope and retain it in a locked
 7 container for the period for preserving the precinct election
 8 records. The clerk shall destroy the unopened envelope and its
 9 contents after the preservation period.

10 SECTION 5.10. Section 86.015 (c), Election Code, as
 11 effective September 1, 2021, is amended to read as follows:

12 (c) An online tool used under this section must:

13 (1) for each election, record:

14 (A) each application for a ballot to be voted by
 15 mail received by the clerk; and

16 (B) each carrier envelope sent to a voter by the
 17 clerk;

18 (2) for each carrier envelope, record or assign a
 19 serially numbered and sequentially issued barcode or tracking
 20 number that is unique to each envelope; ~~and~~

21 (3) update the applicable Internet website as soon as
 22 practicable after each of the following events occurs:

23 (A) receipt by the early voting clerk of the
 24 person 's application for a ballot to be voted by mail;

25 (B) acceptance or rejection by the early voting
 26 clerk of the person 's application for a ballot to be voted by mail;

27 (C) placement in the mail by the early voting

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1 clerk of the person 's official ballot;

2 (D) receipt by the early voting clerk of the
3 person 's marked ballot; and

4 (E) acceptance or rejection by the early voting
5 ballot board of a person 's marked ballot; and

6 (4) allow a voter to add or correct information
7 required under Section 84.002 (a) (1-a) or Section 86.002 (g).

8 SECTION 5.11. Sections 87.027 (d), (e), and (i), Election
9 Code, are amended to read as follows:

10 (d) The early voting clerk shall determine the number of
11 members who are to compose the signature verification committee and
12 shall state that number in the order calling for the committee 's
13 appointment. A committee must consist of not fewer than five
14 members. In an election in which party alignment is indicated on
15 the ballot, each county chair of a political party with a nominee or
16 aligned candidate on the ballot shall submit to the appointing
17 authority a list of names of persons eligible to serve on the
18 signature verification committee in order of the county chair 's
19 preference. The authority shall appoint at least two persons from
20 each list in the order of preference indicated on each list to serve
21 as members of the committee. The same number of members must be
22 appointed from each list. The authority shall appoint as ~~the~~
23 chair of the committee the highest-ranked person on ~~from~~ the list
24 provided by the political party whose nominee for governor received
25 the most votes in the county in the most recent gubernatorial
26 general election. The authority shall appoint as vice chair of the
27 committee the highest-ranked person on the list provided by the

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1 political party whose nominee for governor received the second most
 2 votes in the county in the most recent gubernatorial general
 3 election. A vacancy on the committee shall be filled by appointment
 4 from the original list or from a new list submitted by the
 5 appropriate county chair.

6 (e) To be eligible to serve on a signature verification
 7 committee, a person must be eligible under Subchapter C, Chapter
 8 32, for service as a presiding election judge, except that the
 9 person must be a qualified voter:

10 (1) of the county, in a countywide election ordered by
 11 the governor or a county authority or in a primary election;

12 (2) of the part of the county in which the election is
 13 held, for an election ordered by the governor or a county authority
 14 that does not cover the entire county of the person's residence; or

15 (3) of the political subdivision, in an election
 16 ordered by an authority of a political subdivision other than a
 17 county.

18 (i) The signature verification committee shall compare the
 19 signature on each carrier envelope certificate, except those signed
 20 for a voter by a witness, with the signature on the voter's ballot
 21 application to determine whether the signatures are those of the
 22 voter. The committee may also compare the signatures with any
 23 known signature ~~[two or more signatures]~~ of the voter ~~[made within~~
 24 ~~the preceding six years and]~~ on file with the county clerk or voter
 25 registrar to determine whether the signatures are those of the
 26 voter. Except as provided by Subsection (l), a determination under
 27 this subsection that the signatures are not those of the voter must

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1 be made by a majority vote of the committee 's membership. The
 2 committee shall place the jacket envelopes, carrier envelopes, and
 3 applications of voters whose signatures are not those of the voter
 4 in separate containers from those of voters whose signatures are
 5 those of the voter. The committee chair shall deliver the sorted
 6 materials to the early voting ballot board at the time specified by
 7 the board 's presiding judge.

8 SECTION 5.12. Subchapter B, Chapter 87, Election Code, is
 9 amended by adding Section 87.0271 to read as follows:

10 Sec. 87.0271. OPPORTUNITY TO CORRECT DEFECT: SIGNATURE
 11 VERIFICATION COMMITTEE. (a) This section applies to an early
 12 voting ballot voted by mail:

13 (1) for which the voter did not sign the carrier
 14 envelope certificate;

15 (2) for which it cannot immediately be determined
 16 whether the signature on the carrier envelope certificate is that
 17 of the voter;

18 (3) missing any required statement of residence;

19 (4) missing information or containing incorrect
 20 information required under Section 84.002 (a) (1-a) or Section
 21 86.002 ; or

22 (5) containing incomplete information with respect to
 23 a witness.

24 (b) Not later than the second business day after a signature
 25 verification committee discovers a defect described by Subsection
 26 (a) and before the committee decides whether to accept or reject a
 27 timely delivered ballot under Section 87.027 , the committee shall:

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1 (1) determine if it would be possible for the voter to
2 correct the defect and return the carrier envelope before the time
3 the polls are required to close on election day; and

4 (2) return the carrier envelope to the voter by mail,
5 if the committee determines that it would be possible for the voter
6 to correct the defect and return the carrier envelope before the
7 time the polls are required to close on election day.

8 (c) If the signature verification committee determines
9 under Subsection (b)(1) that it would not be possible for the voter
10 to correct the defect and return the carrier envelope before the
11 time the polls are required to close on election day, the committee
12 may notify the voter of the defect by telephone or e-mail and inform
13 the voter that the voter may request to have the voter 's application
14 to vote by mail canceled in the manner described by Section [84.032](#)
15 or come to the early voting clerk 's office in person not later than
16 the sixth day after election day to correct the defect.

17 (d) If the signature verification committee takes an action
18 described by Subsection (b) or (c), the committee must take either
19 action described by that subsection with respect to each ballot in
20 the election to which this section applies.

21 (e) A poll watcher is entitled to observe an action taken
22 under Subsection (b) or (c).

23 (f) The secretary of state may prescribe any procedures
24 necessary to implement this section.

25 (g) Notwithstanding any other law, a ballot may not be
26 finally rejected for a reason listed in Section [87.041](#) (b)(1), (2),
27 or (6) before the seventh day after election day.

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SECTION 5.13. Section 87.041 , Election Code, is amended by amending Subsections (b) and (e) and adding Subsection (d-1) to read as follows:

(b) A ballot may be accepted only if:

(1) the carrier envelope certificate is properly executed;

(2) neither the voter 's signature on the ballot application nor the signature on the carrier envelope certificate is determined to have been executed by a person other than the voter, unless signed by a witness;

(3) the voter 's ballot application states a legal ground for early voting by mail;

(4) the voter is registered to vote, if registration is required by law;

(5) the address to which the ballot was mailed to the voter, as indicated by the application, was outside the voter 's county of residence, if the ground for early voting is absence from the county of residence;

(6) for a voter to whom a statement of residence form was required to be sent under Section 86.002 (a), the statement of residence is returned in the carrier envelope and indicates that the voter satisfies the residence requirements prescribed by Section 63.0011 ; ~~and~~

(7) the address to which the ballot was mailed to the voter is an address that is otherwise required by Sections 84.002 and 86.003 ; and

(8) the information required under Section 86.002 (g)

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1 provided by the voter identifies the same voter identified on the
 2 voter 's application for voter registration under Section
 3 13.002 (c) (8).

4 (d-1) If a voter provides the information required under
 5 Section 86.002 (g) and it identifies the same voter identified on
 6 the voter 's application for voter registration under Section
 7 13.002 (c) (8), the signature on the ballot application and on the
 8 carrier envelope certificate shall be rebuttably presumed to be
 9 the signatures of the voter.

10 (e) In making the determination under Subsection (b) (2), to
 11 determine whether the signatures are those of the voter, the board
 12 may also compare the signatures with any known signature ~~[two or~~
 13 ~~more signatures]~~ of the voter ~~[made within the preceding six years~~
 14 ~~and]~~ on file with the county clerk or voter registrar ~~[to determine~~
 15 ~~whether the signatures are those of the voter].~~

16 SECTION 5.14. Subchapter C, Chapter 87, Election Code, is
 17 amended by adding Section 87.0411 to read as follows:

18 Sec. 87.0411. OPPORTUNITY TO CORRECT DEFECT: EARLY VOTING
 19 BALLOT BOARD. (a) This section applies to an early voting ballot
 20 voted by mail:

21 (1) for which the voter did not sign the carrier
 22 envelope certificate;

23 (2) for which it cannot immediately be determined
 24 whether the signature on the carrier envelope certificate is that
 25 of the voter;

26 (3) missing any required statement of residence;

27 (4) missing information or containing incorrect

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1 information required under Section 84.002 (a) (1-a) or Section
2 86.002 ; or

3 (5) containing incomplete information with respect to
4 a witness.

5 (b) Not later than the second business day after an early
6 voting ballot board discovers a defect described by Subsection (a)
7 and before the board decides whether to accept or reject a timely
8 delivered ballot under Section 87.041 , the board shall:

9 (1) determine if it would be possible for the voter to
10 correct the defect and return the carrier envelope before the time
11 the polls are required to close on election day; and

12 (2) return the carrier envelope to the voter by mail,
13 if the board determines that it would be possible for the voter to
14 correct the defect and return the carrier envelope before the time
15 the polls are required to close on election day.

16 (c) If the early voting ballot board determines under
17 Subsection (b) (1) that it would not be possible for the voter to
18 correct the defect and return the carrier envelope before the time
19 the polls are required to close on election day, the board may
20 notify the voter of the defect by telephone or e-mail and inform the
21 voter that the voter may request to have the voter 's application to
22 vote by mail canceled in the manner described by Section 84.032 or
23 come to the early voting clerk 's office in person not later than the
24 sixth day after election day to correct the defect.

25 (d) If the early voting ballot board takes an action
26 described by Subsection (b) or (c), the board must take either
27 action described by that subsection with respect to each ballot in

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1 the election to which this section applies.

2 (e) A poll watcher is entitled to observe an action taken
 3 under Subsection (b) or (c).

4 (f) The secretary of state may prescribe any procedures
 5 necessary to implement this section.

6 (g) Notwithstanding any other law, a ballot may not be
 7 finally rejected for a reason listed in Section 87.041 (b) (1), (2),
 8 or (6) before the seventh day after election day.

9 SECTION 5.15. Section 87.0431 (b), Election Code, is amended
 10 to read as follows:

11 (b) The early voting clerk shall, not later than the 30th
 12 day after election day, deliver notice to the attorney general,
 13 including certified copies of the carrier envelope and
 14 corresponding ballot application, of any ballot rejected because:

15 (1) the voter was deceased;

16 (2) the voter already voted in person in the same
 17 election;

18 (3) the signatures on the carrier envelope and ballot
 19 application were not executed by the same person;

20 (4) the carrier envelope certificate lacked a witness
 21 signature; ~~or~~

22 (5) the carrier envelope certificate was improperly
 23 executed by an assistant; or

24 (6) the early voting ballot board or the signature
 25 verification committee determined that another violation of the
 26 Election Code occurred.

27 SECTION 5.16. Sections 87.062 (a) and (c), Election Code,

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1 are amended to read as follows:

2 (a) On the direction of the presiding judge, the early
3 voting ballot board, in accordance with Section 85.032 (b), shall
4 open the containers ~~[container]~~ for the early voting ballots that
5 are to be counted by the board, remove the contents from each ~~[the]~~
6 container, and remove any ballots enclosed in ballot envelopes from
7 their envelopes.

8 (c) Ballots voted by mail shall be tabulated and stored
9 separately from the ballots voted by personal appearance and shall
10 be separately reported on the returns ~~[The results of all early~~
11 ~~voting ballots counted by the board under this subchapter shall be~~
12 ~~included in the same return].~~

13 SECTION 5.17. Section 87.103 , Election Code, is amended to
14 read as follows:

15 Sec. 87.103. COUNTING BALLOTS AND PREPARING RETURNS. (a)
16 The early voting electronic system ballots counted at a central
17 counting station, the ballots cast at precinct polling places, and
18 the ballots voted by mail shall be tabulated separately ~~[from the~~
19 ~~ballots cast at precinct polling places]~~ and shall be separately
20 reported on the returns.

21 (b) The early voting returns prepared at the central
22 counting station must include any early voting results obtained by
23 the early voting ballot board under Subchapter ~~[Subchapters]~~ D ~~[and~~
24 ~~E]~~.

25 SECTION 5.18. Section 87.126 , Election Code, is amended by
26 adding Subsection (a-1) to read as follows:

27 (a-1) Electronic records made under this section shall

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1 record both sides of any application, envelope, or ballot recorded,
 2 and all such records shall be provided to the early voting ballot
 3 board, the signature verification committee, or both.

4 SECTION 5.19. Subchapter G, Chapter 87, Election Code, is
 5 amended by adding Section 87.128 to read as follows:

6 Sec. 87.128. NOTES. (a) Each member of an early voting
 7 ballot board and each member of a signature verification committee
 8 is entitled to take any notes reasonably necessary to perform the
 9 member 's duties under this chapter.

10 (b) Notes taken under this section may not contain
 11 personally identifiable information.

12 (c) Each member who takes notes under this section shall
 13 sign the notes and deliver them to the presiding judge or committee
 14 chair, as applicable, for delivery to the custodian of election
 15 records.

16 (d) Notes collected under this section shall be preserved in
 17 the same manner as precinct election records under Section 66.058 .

ARTICLE 6. ASSISTANCE OF VOTERS

19 SECTION 6.01. Section 64.009, Election Code, is amended by
 20 amending Subsection (b) and adding Subsections (e), (f), (f-1),
 21 (g), and (h) to read as follows:

22 (b) The regular voting procedures, except those in
 23 Subchapter B, may be modified by the election officer to the extent
 24 necessary to conduct voting under this section.

25 (e) Except as provided by Section 33.057, a poll watcher is
 26 entitled to observe any activity conducted under this section.

27 (f) A person who simultaneously assists seven or more voters

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1 voting under this section by providing the voters with
 2 transportation to the polling place must complete and sign a form,
 3 provided by an election officer, that contains the person 's name
 4 and address and whether the person is providing assistance solely
 5 under this section or under both this section and Subchapter B.

6 (f-1) Subsection (f) does not apply if the person is related
 7 to each voter within the second degree by affinity or the third
 8 degree by consanguinity, as determined under Subchapter B, Chapter
 9 573 , Government Code.

10 (g) A form completed under Subsection (f) shall be delivered
 11 to the secretary of state as soon as practicable. The secretary
 12 shall retain a form delivered under this section for the period for
 13 preserving the precinct election records and shall make the form
 14 available to the attorney general for inspection upon request.

15 (h) The secretary of state shall prescribe the form
 16 described by Subsection (f).

17 SECTION 6.02. Section 64.031 , Election Code, is amended to
 18 read as follows:

19 Sec. 64.031. ELIGIBILITY FOR ASSISTANCE. A voter is
 20 eligible to receive assistance in marking or reading the ballot, as
 21 provided by this subchapter, if the voter cannot prepare or read the
 22 ballot because of:

23 (1) a physical disability that renders the voter
 24 unable to write or see; or

25 (2) an inability to read the language in which the
 26 ballot is written.

27 SECTION 6.03. Subchapter B, Chapter 64 , Election Code, is

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1 amended by adding Section 64.0322 to read as follows:

2 Sec. 64.0322. SUBMISSION OF FORM BY ASSISTANT. (a) A
 3 person, other than an election officer, who assists a voter in
 4 accordance with this chapter is required to complete a form
 5 stating:

6 (1) the name and address of the person assisting the
 7 voter;

8 (2) the relationship to the voter of the person
 9 assisting the voter; and

10 (3) whether the person assisting the voter received or
 11 accepted any form of compensation or other benefit from a
 12 candidate, campaign, or political committee.

13 (b) The secretary of state shall prescribe the form required
 14 by this section. The form must be incorporated into the official
 15 carrier envelope if the voter is voting an early voting ballot by
 16 mail and receives assistance under Section 86.010 , or must be
 17 submitted to an election officer at the time the voter casts a
 18 ballot if the voter is voting at a polling place or under Section
 19 64.009 .

20 SECTION 6.04. Section 64.034 , Election Code, is amended to
 21 read as follows:

22 Sec. 64.034. OATH. A person, other than an election
 23 officer, selected to provide assistance to a voter must take the
 24 following oath, administered by an election officer at the polling
 25 place, before providing assistance:

26 "I swear (or affirm) under penalty of perjury that the voter I
 27 am assisting represented to me they are eligible to receive

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1 assistance; I will not suggest, by word, sign, or gesture, how the
 2 voter should vote; I will confine my assistance to reading the
 3 ballot to the voter, directing the voter to read the ballot, marking
 4 the voter 's ballot, or directing the voter to mark the ballot;
 5 ~~[answering the voter 's questions, to stating propositions on the~~
 6 ~~ballot, and to naming candidates and, if listed, their political~~
 7 ~~parties;]~~ I will prepare the voter 's ballot as the voter directs; I
 8 did not pressure or coerce the voter into choosing me to provide
 9 assistance; ~~[and]~~ I am not the voter 's employer, an agent of the
 10 voter 's employer, or an officer or agent of a labor union to which
 11 the voter belongs; I will not communicate information about how the
 12 voter has voted to another person; and I understand that if
 13 assistance is provided to a voter who is not eligible for
 14 assistance, the voter 's ballot may not be counted."

15 SECTION 6.05. Sections 86.010 (e), (h), and (i), Election
 16 Code, are amended to read as follows:

17 (e) A person who assists a voter to prepare a ballot to be
 18 voted by mail shall enter on the official carrier envelope of the
 19 voter:

20 (1) the person 's signature, printed name, and
 21 residence address; _

22 (2) the relationship of the person providing the
 23 assistance to the voter; and

24 (3) whether the person received or accepted any form
 25 of compensation or other benefit from a candidate, campaign, or
 26 political committee in exchange for providing assistance ~~[on the~~
 27 ~~official carrier envelope of the voter].~~

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(h) Subsection (f) does not apply:

(1) to a violation of Subsection (c), if the person is related to the voter within the second degree by affinity or the third degree by consanguinity, as determined under Subchapter B, Chapter 573, Government Code, or was physically living in the same dwelling as the voter at the time of the event; or

(2) to a violation of Subsection (e), if the person is related to the voter within the second degree by affinity or the third degree by consanguinity, as determined under Subchapter B, Chapter 573, Government Code.

(i) An offense under this section for a violation of Subsection (c) is increased to the next higher category of offense if it is shown on the trial of an offense under this section that:

(1) the defendant was previously convicted of an offense under this code;

(2) the offense involved a voter 65 years of age or older; or

(3) the defendant committed another offense under this section in the same election.

SECTION 6.06. Section 86.0105, Election Code, is amended by amending Subsections (a), (c), and (e) and adding Subsection (f) to read as follows:

(a) A person commits an offense if the person:

(1) compensates or offers to compensate another person for assisting voters as provided by Section 86.010 [~~as part of any performance based compensation scheme based on the number of voters assisted or in which another person is presented with a quota of~~]

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~~voters to be assisted as provided by Section 86.010~~]; or

(2) solicits, receives, or ~~[engages in another practice that causes another person's compensation from or employment status with the person to be dependent on the number of voters assisted as provided by Section 86.010 ; or~~

~~[(3) with knowledge that accepting compensation for such activity is illegal,]~~ accepts compensation for an activity described by Subdivision (1) ~~[or (2)]~~.

(c) An offense under this section is a state jail felony ~~[if it is shown on the trial of an offense under this section that the defendant was previously convicted two or more times under this section]~~.

(e) For purposes of this section, compensation means an economic benefit as defined by Section 38.01 , Penal Code ~~[any form of monetary payment, goods, services, benefits, or promises or offers of employment, or any other form of consideration offered to another person in exchange for assisting voters]~~.

(f) This section does not apply if the person assisting a voter is an attendant or caregiver previously known to the voter.

SECTION 6.07. Section 86.013 (b), Election Code, is amended to read as follows:

(b) Spaces must appear on the reverse side of the official carrier envelope for:

(1) indicating the identity and date of the election;
~~[and]~~

(2) entering the signature, printed name, and residence address of a person other than the voter who deposits the

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1 carrier envelope in the mail or with a common or contract carrier; 2 and

3 (3) indicating the relationship of that person to the
4 voter.

5 SECTION 6.08. (a) The secretary of state shall conduct a
6 study regarding the implementation of educational programs,
7 including the production and publication on the secretary of
8 state 's Internet website of instructional videos, to help voters
9 with disabilities understand how to use voting systems used in this
10 state.

11 (b) Not later than December 1, 2022, the secretary of state
12 shall submit to the standing committees of the legislature with
13 jurisdiction over elections a report on the study required by this
14 section.

15 (c) The secretary of state, using existing resources, may
16 contract with a qualified vendor to conduct the study required by
17 this section.

18 (d) This section expires December 1, 2023.

19 ARTICLE 7. FRAUD AND OTHER UNLAWFUL PRACTICES

20 SECTION 7.01. Chapter 63, Election Code, is amended by
21 adding Section 63.0111 to read as follows:

22 Sec. 63.0111. OFFENSES RELATED TO PROVISIONAL VOTING. (a)
23 An election judge commits an offense if the judge knowingly
24 provides a voter with a form for an affidavit required by Section
25 63.001 if the form contains information that the judge entered on
26 the form knowing it was false.

27 (b) An offense under this section is a state jail felony.

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SECTION 7.02. Sections 276.004 (a) and (b), Election Code, are amended to read as follows:

(a) A person commits an offense if, with respect to another person over whom the person has authority in the scope of employment, the person knowingly:

(1) refuses to permit the other person to be absent from work on election day or while early voting is in progress for the purpose of attending the polls to vote; or

(2) subjects or threatens to subject the other person to a penalty for attending the polls on election day or while early voting is in progress to vote.

(b) It is an exception to the application of this section that the person 's conduct occurs in connection with an election in which the polls are open on election day or while early voting is in progress for voting for two consecutive hours outside of the voter 's working hours.

SECTION 7.03. Sections 276.013 (a) and (b), Election Code, are amended to read as follows:

(a) A person commits an offense if the person knowingly or intentionally makes any effort to:

(1) influence the independent exercise of the vote of another in the presence of the ballot or during the voting process, including by altering the ballot of another or by otherwise causing a ballot to not reflect the intent of the voter;

(2) cause a voter to become registered, a ballot to be obtained, or a vote to be cast under false pretenses; ~~or~~

(3) cause any false or intentionally misleading

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statement, representation, or information to be provided:

(A) to an election official; or

(B) on an application for ballot by mail, carrier envelope, or any other official election-related form or document; _

(4) prevent a voter from casting a legal ballot in an election in which the voter is eligible to vote;

(5) provide false information to a voter with the intent of preventing the voter from voting in an election in which the voter is eligible to vote;

(6) cause the ballot not to reflect the intent of the voter;

(7) cause a ballot to be voted for another person that the person knows to be deceased or otherwise knows not to be a qualified or registered voter;

(8) cause or enable a vote to be cast more than once in the same election; or

(9) discard or destroy a voter's completed ballot without the voter's consent.

(b) An offense under this section is a Class A misdemeanor, unless:

(1) the person committed the offense while acting in the person's capacity as an elected official, in which case the offense is a state jail felony; or

(2) the person is convicted of an attempt, in which case the offense is a Class B ~~A~~ misdemeanor.

SECTION 7.04. Chapter 276, Election Code, is amended by adding Sections 276.015, 276.016, 276.017, 276.018, and 276.019 to

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1 read as follows:

2 Sec. 276.015. VOTE HARVESTING. (a) In this section:

3 (1) "Benefit" means anything reasonably regarded as a
4 gain or advantage, including a promise or offer of employment, a
5 political favor, or an official act of discretion, whether to a
6 person or another party whose welfare is of interest to the person.

7 (2) "Vote harvesting services" means in-person
8 interaction with one or more voters, in the physical presence of an
9 official ballot or a ballot voted by mail, intended to deliver votes
10 for a specific candidate or measure.

11 (b) A person commits an offense if the person, directly or
12 through a third party, knowingly provides or offers to provide vote
13 harvesting services in exchange for compensation or other benefit.

14 (c) A person commits an offense if the person, directly or
15 through a third party, knowingly provides or offers to provide
16 compensation or other benefit to another person in exchange for
17 vote harvesting services.

18 (d) A person commits an offense if the person knowingly
19 collects or possesses a mail ballot or official carrier envelope in
20 connection with vote harvesting services.

21 (e) This section does not apply to:

22 (1) an activity not performed in exchange for
23 compensation or a benefit;

24 (2) interactions that do not occur in the presence of
25 the ballot or during the voting process;

26 (3) interactions that do not directly involve an
27 official ballot or ballot by mail;

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1 (4) interactions that are not conducted in-person with
 2 a voter; or

3 (5) activity that is not designed to deliver votes for
 4 or against a specific candidate or measure.

5 (f) An offense under this section is a felony of the third
 6 degree.

7 (g) If conduct that constitutes an offense under this
 8 section also constitutes an offense under any other law, the actor
 9 may be prosecuted under this section, the other law, or both.

10 (h) Records necessary to investigate an offense under this
 11 section or any other section of this code shall be provided by an
 12 election officer in an unredacted form to a law enforcement officer
 13 upon request. Records obtained under this subsection are not
 14 subject to public disclosure.

15 Sec. 276.016. UNLAWFUL SOLICITATION AND DISTRIBUTION OF
 16 APPLICATION TO VOTE BY MAIL. (a) A public official or election
 17 official commits an offense if the official, while acting in an
 18 official capacity, knowingly:

19 (1) solicits the submission of an application to vote
 20 by mail from a person who did not request an application;

21 (2) distributes an application to vote by mail to a
 22 person who did not request the application unless the distribution
 23 is expressly authorized by another provision of this code;

24 (3) authorizes or approves the expenditure of public
 25 funds to facilitate third-party distribution of an application to
 26 vote by mail to a person who did not request the application; or

27 (4) completes any portion of an application to vote by

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1 mail and distributes the application to an applicant.

2 (b) An offense under this section is a state jail felony.

3 (c) Subsection (a)(2) does not apply if the public official
 4 or election official engaged in the conduct described by Subsection
 5 (a)(2) by providing access to an application to vote by mail from a
 6 publicly accessible Internet website.

7 (d) Subsection (a)(4) does not apply if the public official
 8 or election official engaged in the conduct described by Subsection
 9 (a)(4) while lawfully assisting the applicant under Section 84.003 .

10 (e) Subsection (a) does not apply if the public official or
 11 election official:

12 (1) provided general information about voting by mail,
 13 the vote by mail process, or the timelines associated with voting to
 14 a person or the public; or

15 (2) engaged in the conduct described by Subsection (a)
 16 while acting in the official 's capacity as a candidate for a public
 17 elective office.

18 (f) The remedy provided under this chapter is cumulative,
 19 and does not restrict any other remedies provided by this code or by
 20 law. A violation of this section is subject to injunctive relief or
 21 mandamus as provided by this code.

22 Sec. 276.017. UNLAWFUL DISTRIBUTION OF EARLY VOTING BALLOTS
 23 AND BALLOTING MATERIALS. (a) The early voting clerk or other
 24 election official commits an offense if the clerk or official
 25 knowingly mails or otherwise provides an early voting ballot by
 26 mail or other early voting by mail ballot materials to a person who
 27 the clerk or official knows did not submit an application for a

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1 ballot to be voted by mail under Section 84.001 .

2 (b) An offense under this section is a Class A misdemeanor.

3 Sec. 276.018. PERJURY IN CONNECTION WITH CERTAIN ELECTION
 4 PROCEDURES. (a) A person commits an offense if, with the intent to
 5 deceive, the person knowingly or intentionally makes a false
 6 statement or swears to the truth of a false statement:

7 (1) on a voter registration application; or

8 (2) previously made while making an oath, declaration,
 9 or affidavit described by this code.

10 (b) An offense under this section is a state jail felony.

11 Sec. 276.019. UNLAWFUL ALTERING OF ELECTION PROCEDURES. A
 12 public official or election official may not create, alter, modify,
 13 waive, or suspend any election standard, practice, or procedure
 14 mandated by law or rule in a manner not expressly authorized by this
 15 code.

16 ARTICLE 8. ENFORCEMENT

17 SECTION 8.01. Subchapter E, Chapter 31, Election Code, is
 18 amended by adding Sections 31.128, 31.129, and 31.130 to read as
 19 follows:

20 Sec. 31.128. RESTRICTION ON ELIGIBILITY. (a) In this
 21 section, "election official" does not include a chair of a county
 22 political party holding a primary election or a runoff primary
 23 election.

24 (b) A person may not serve as an election official if the
 25 person has been finally convicted of an offense under this code.

26 Sec. 31.129. CIVIL PENALTY. (a) In this section, "election
 27 official" has the meaning assigned by Section 31.128.

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1 **(b) An election official may be liable to this state for a**
 2 **civil penalty if the official:**

3 **(1) is employed by or is an officer of this state or a**
 4 **political subdivision of this state; and**

5 **(2) violates a provision of this code.**

6 **(c) A civil penalty imposed under this section may include**
 7 **termination of the person 's employment and loss of the person 's**
 8 **employment benefits.**

9 **Sec. 31.130. SUIT AGAINST ELECTION OFFICER. An action,**
 10 **including an action for a writ of mandamus, alleging that an**
 11 **election officer violated a provision of this code while acting in**
 12 **the officer 's official capacity may only be brought against the**
 13 **officer in the officer 's official capacity.**

14 SECTION 8.02. Sections **232.008** (b), (c), and (d), Election
 15 Code, are amended to read as follows:

16 (b) Except as provided by Subsection (c), a contestant must
 17 file the petition not later than the later of the **45th** ~~[30th]~~ day
 18 after the date the election records are publicly available under
 19 Section **1.012** or the official result of the contested election is
 20 determined.

21 (c) A contestant must file the petition not later than the
 22 later of the **15th** ~~[10th]~~ day after the date the election records are
 23 publicly available under Section **1.012** or the official result is
 24 determined in a contest of:

25 (1) a primary or runoff primary election; or

26 (2) a general or special election for which a runoff is
 27 necessary according to the official result or will be necessary if

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the contestant prevails.

(d) A contestant must deliver, electronically or otherwise,
a copy of the petition to the secretary of state by the same
deadline prescribed for the filing of the petition.

SECTION 8.03. Title 14, Election Code, is amended by adding
Subtitle D to read as follows:

SUBTITLE D. OTHER ELECTION LAWSUITS

CHAPTER 247. LAWSUIT ALLEGING IMPROPER ELECTION ACTIVITIES

Sec. 247.001. PETITION ALLEGING FRAUD. This chapter
applies to a civil suit in which a candidate in an election alleges
in the petition that an opposing candidate, an agent of the opposing
candidate, or a person acting on behalf of the opposing candidate
with the candidate 's knowledge violated any of the following
sections of this code:

- (1) Section 13.007 ;
- (2) Section 64.012 ;
- (3) Section 64.036 ;
- (4) Section 84.003 ;
- (5) Section 84.0041 ;
- (6) Section 86.0051 ;
- (7) Section 86.006 ;
- (8) Section 86.010 ;
- (9) Section 276.013 ; and
- (10) Section 276.015.

Sec. 247.002. PROCEDURE. A candidate in an election may
file a petition for an action under this chapter in any county where
a defendant resided at the time of the election. If the election is

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1 for a statewide office, the candidate may also file the petition in
 2 a district court in Travis County.

3 Sec. 247.003. FILING PERIOD FOR PETITION. A candidate in an
 4 election may file a petition for an action under this chapter not
 5 earlier than the day after the date the election is certified and
 6 not later than the 45th day after the later of that date or the date
 7 election records are made publicly available under Section 1.012 .

8 Sec. 247.004. DAMAGES. (a) If it is shown by a
 9 preponderance of the evidence that a defendant, an agent of the
 10 defendant, or a person acting on behalf of the defendant with the
 11 defendant 's knowledge committed one or more violations of a section
 12 described by Section 247.001, the defendant is liable to the
 13 plaintiff for damages in an amount of \$1,000 for each violation.

14 (b) Notwithstanding Section 41.004 , Civil Practice and
 15 Remedies Code, a court shall award damages under Subsection (a) to
 16 the plaintiff irrespective of whether the plaintiff is awarded
 17 actual damages.

18 Sec. 247.005. ATTORNEY 'S FEES. In an action under this
 19 chapter, the court may award reasonable attorney 's fees to the
 20 prevailing party.

21 SECTION 8.04. Section 273.061 , Election Code, is amended to
 22 read as follows:

23 Sec. 273.061. JURISDICTION. (a) The supreme court or a
 24 court of appeals may issue a writ of mandamus to compel the
 25 performance of any duty imposed by law in connection with the
 26 holding of an election or a political party convention, regardless
 27 of whether the person responsible for performing the duty is a

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1 public officer.

2 (b) The court of criminal appeals may issue a writ of
 3 mandamus to compel the performance of any duty imposed by law in
 4 connection with the provision, sequestration, transfer, or
 5 impoundment of evidence in or records relating to a criminal
 6 investigation conducted under this code or conducted in connection
 7 with the conduct of an election or political party convention. If a
 8 writ of mandamus is issued under this subsection, it shall include
 9 an order requiring the provision, sequestration, transfer, or
 10 impoundment of the evidence or record.

11 SECTION 8.05. Subchapter D, Chapter 22, Government Code, is
 12 amended by adding Sections 22.304 and 22.305 to read as follows:

13 Sec. 22.304. COURT SITTING IN PANELS FOR CERTAIN ELECTION
 14 PROCEEDINGS; CRIMINAL OFFENSE. (a) In this section, "public
 15 official" means any person elected, selected, appointed, employed,
 16 or otherwise designated as an officer, employee, or agent of this
 17 state, a government agency, a political subdivision, or any other
 18 public body established by state law.

19 (b) Notwithstanding any other law or rule, a court
 20 proceeding entitled to priority under Section 22.305 and filed in a
 21 court of appeals shall be docketed by the clerk of the court and
 22 assigned to a panel of three justices determined using an automated
 23 assignment system.

24 (c) A person, including a public official, commits an
 25 offense if the person communicates with a court clerk with the
 26 intention of influencing or attempting to influence the composition
 27 of a three-justice panel assigned a specific proceeding under this

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1 section.

2 (d) An offense under this section is a Class A misdemeanor.

3 Sec. 22.305. PRIORITY OF CERTAIN ELECTION PROCEEDINGS. (a)

4 The supreme court or a court of appeals shall prioritize over any
 5 other proceeding pending or filed in the court a proceeding for
 6 injunctive relief or for a writ of mandamus under Chapter 273 ,
 7 Election Code, pending or filed in the court on or after the 70th
 8 day before a general or special election.

9 (b) If granted, oral argument for a proceeding described by
 10 Subsection (a) may be given in person or through electronic means.

11 SECTION 8.06. Section 23.101 , Government Code, is amended
 12 by amending Subsection (a) and adding Subsections (b-1) and (b-2)
 13 to read as follows:

14 (a) Except as provided by Subsection (b-1), the ~~The~~ trial
 15 courts of this state shall regularly and frequently set hearings
 16 and trials of pending matters, giving preference to hearings and
 17 trials of the following:

18 (1) temporary injunctions;

19 (2) criminal actions, with the following actions given
 20 preference over other criminal actions:

21 (A) criminal actions against defendants who are
 22 detained in jail pending trial;

23 (B) criminal actions involving a charge that a
 24 person committed an act of family violence, as defined by Section
 25 71.004 , Family Code;

26 (C) an offense under:

27 (i) Section 21.02 or 21.11 , Penal Code;

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(ii) Chapter 22, Penal Code, if the victim of the alleged offense is younger than 17 years of age;

(iii) Section 25.02, Penal Code, if the victim of the alleged offense is younger than 17 years of age;

(iv) Section 25.06, Penal Code;

(v) Section 43.25, Penal Code; or

(vi) Section 20A.02 (a)(7), 20A.02 (a)(8), or 20A.03, Penal Code;

(D) an offense described by Article 62.001 (6)(C) or (D), Code of Criminal Procedure; and

(E) criminal actions against persons who are detained as provided by Section 51.12, Family Code, after transfer for prosecution in criminal court under Section 54.02, Family Code;

(3) election contests and suits under the Election Code;

(4) orders for the protection of the family under Subtitle B, Title 4, Family Code;

(5) appeals of final rulings and decisions of the division of workers' compensation of the Texas Department of Insurance regarding workers' compensation claims and claims under the Federal Employers' Liability Act and the Jones Act;

(6) appeals of final orders of the commissioner of the General Land Office under Section 51.3021, Natural Resources Code;

(7) actions in which the claimant has been diagnosed with malignant mesothelioma, other malignant asbestos-related cancer, malignant silica-related cancer, or acute silicosis; and

(8) appeals brought under Section 42.01 or 42.015, Tax

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Code, of orders of appraisal review boards of appraisal districts established for counties with a population of less than 175,000.

(b-1) Except for a criminal case in which the death penalty has been or may be assessed or when it would otherwise interfere with a constitutional right, the trial courts of this state shall prioritize over any other proceeding pending or filed in the court a proceeding for injunctive relief under Chapter 273, Election Code, pending or filed in the court on or after the 70th day before a general or special election.

(b-2) A hearing in a proceeding described by Subsection (b-1) may be held in person or through electronic means, as determined by the court.

SECTION 8.07. Chapter 23, Government Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. GENERAL PROVISIONS

Sec. 23.301. ASSIGNMENT OF CERTAIN ELECTION PROCEEDINGS; CRIMINAL OFFENSE. (a) Notwithstanding any other law or rule, the clerk of a district court in which a proceeding entitled to priority under Section 23.101 (b-1) is filed shall docket the proceeding and, if more than one district court in the county has jurisdiction over the proceeding, randomly assign the proceeding to a district court using an automated assignment system.

(b) Notwithstanding any other law or rule, the clerk of a county court or statutory county court in which a proceeding entitled to priority under Section 23.101 (b-1) is filed shall docket the proceeding and, if more than one court in the county has jurisdiction over the proceeding, randomly assign the proceeding to

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1 a court using an automated assignment system.

2 (c) A person, including a public official, commits an
 3 offense if the person communicates with a county or district clerk
 4 with the intention of influencing or attempting to influence the
 5 court or judge assigned to a proceeding under this section.

6 (d) An offense under this section is a Class A misdemeanor,
 7 except that the offense is a state jail felony if it is shown on the
 8 trial of the offense that the person committed the offense while
 9 acting in the person 's official capacity as an election official.

10 (e) If a district or county clerk does not comply with this
 11 section, a person may seek from the supreme court or a court of
 12 appeals a writ of mandamus as provided by Section 273.061 , Election
 13 Code, to compel compliance with this section.

14 Sec. 23.302. DEADLINES IN CERTAIN ELECTION PROCEEDINGS.

15 (a) Not later than 24 hours after the proceeding is filed, a judge
 16 to whom a case is assigned under Section 23.301(b) who wishes to be
 17 recused from the proceeding must, before recusal:

18 (1) hear an application for any emergency temporary
 19 relief sought;

20 (2) grant or deny any emergency temporary relief
 21 sought; and

22 (3) set a scheduling order that provides:

23 (A) a date for a hearing on any injunction sought
 24 not later than five days after the date on which the proceeding was
 25 filed; and

26 (B) discovery and deposition deadlines before
 27 the expiration of any emergency relief order entered.

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1 (b) The presiding judge of an administrative region shall
 2 assign a new judge to a proceeding assigned under Section 23.301(b)
 3 not later than 12 hours after the original judge assigned to the
 4 proceeding is recused under Subsection (a).

5 (c) A final order in a proceeding filed under Section
 6 273.081 , Election Code, shall be submitted in writing to the
 7 parties not later than 24 hours after the judge makes a final
 8 determination in the proceeding.

9 (d) If a district judge does not comply with this section, a
 10 person may seek from the supreme court, the court of criminal
 11 appeals, or a court of appeals a writ of mandamus as provided by
 12 Section 273.061 , Election Code, to compel compliance with this
 13 section.

14 (e) Notwithstanding Section 23.101 (b-1), a proceeding
 15 relating to a permanent injunction being sought in connection to a
 16 challenge under Section 141.034 , Election Code, may be heard after
 17 the primary election has been canvassed.

18 ARTICLE 9. INELIGIBLE VOTERS AND RELATED REFORMS

19 SECTION 9.01. Chapter 42 , Code of Criminal Procedure, is
 20 amended by adding Article 42.0194 to read as follows:

21 Art. 42.0194. FINDING REGARDING FELONY CONVICTION. In the
 22 trial of a felony offense, if the defendant is adjudged guilty of
 23 the offense, the court shall:

24 (1) make an affirmative finding that the person has
 25 been found guilty of a felony and enter the affirmative finding in
 26 the judgment of the case; and

27 (2) instruct the defendant regarding how the felony

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1 conviction will impact the defendant 's right to vote in this state.

2 SECTION 9.02. Article 42.01 , Code of Criminal Procedure, as
3 effective September 1, 2021, is amended by adding Section 16 to read
4 as follows:

5 Sec. 16. In addition to the information described by
6 Section 1, the judgment should reflect the affirmative finding and
7 instruction entered pursuant to Article 42.0194.

8 SECTION 9.03. Section 64.012 , Election Code, is amended by
9 amending Subsections (a) and (b) and adding Subsections (c) and (d)
10 to read as follows:

11 (a) A person commits an offense if the person knowingly or
12 intentionally:

13 (1) votes or attempts to vote in an election in which
14 the person knows the person is not eligible to vote;

15 (2) ~~[knowingly]~~ votes or attempts to vote more than
16 once in an election;

17 (3) ~~[knowingly]~~ votes or attempts to vote a ballot
18 belonging to another person, or by impersonating another person;
19 ~~[or]~~

20 (4) ~~[knowingly]~~ marks or attempts to mark any portion
21 of another person 's ballot without the consent of that person, or
22 without specific direction from that person how to mark the ballot;
23 or

24 (5) votes or attempts to vote in an election in this
25 state after voting in another state in an election in which a
26 federal office appears on the ballot and the election day for both
27 states is the same day.

S.B. No. 1

(b) An offense under this section is a Class A misdemeanor
~~[felony of the second degree unless the person is convicted of an~~
~~attempt. In that case, the offense is a state jail felony].~~

(c) A person may not be convicted solely upon the fact that
the person signed a provisional ballot affidavit under Section
63.011 unless corroborated by other evidence that the person
knowingly committed the offense.

(d) If conduct that constitutes an offense under this
section also constitutes an offense under any other law, the actor
may be prosecuted under this section, the other law, or both.

SECTION 9.04. The change in law made by this article in
adding Section 64.012 (c), Election Code, applies to an offense
committed before, on, or after the effective date of this Act,
except that a final conviction for an offense under that section
that exists on the effective date of this Act remains unaffected by
this article.

ARTICLE 10. REPEALER; SEVERABILITY; TRANSITION; EFFECTIVE DATE

SECTION 10.01. The following provisions of the Election
Code are repealed:

- (1) Section 85.062 (e);
- (2) Section 86.0105 (b); and
- (3) Section 127.201 (f).

SECTION 10.02. If any provision of this Act or its
application to any person or circumstance is held invalid, the
invalidity does not affect other provisions or applications of this
Act that can be given effect without the invalid provision or
application, and to this end the provisions of this Act are declared

S.B. No. 1

1 to be severable.

2 SECTION 10.03. (a) Except as otherwise provided by this
3 Act, the changes in law made by this Act apply only to an offense
4 committed on or after the effective date of this Act. An offense
5 committed before the effective date of this Act is governed by the
6 law in effect when the offense was committed, and the former law is
7 continued in effect for that purpose. For purposes of this section,
8 an offense was committed before the effective date of this Act if
9 any element of the offense occurred before that date.

10 (b) The changes in law made by this Act apply only to an
11 election ordered on or after the effective date of this Act. An
12 election ordered before the effective date of this Act is governed
13 by the law in effect when the election was ordered, and the former
14 law is continued in effect for that purpose.

15 (c) The changes in law made by this Act apply only to an
16 application to vote an early voting ballot by mail submitted on or
17 after the effective date of this Act. An application to vote an
18 early voting ballot by mail submitted before the effective date of
19 this Act is governed by the law in effect when the application was
20 submitted, and the former law is continued in effect for that
21 purpose.

22 (d) The changes in law made by this Act apply only to an
23 application for voter registration submitted on or after the
24 effective date of this Act.

25 (e) Chapter 247, Election Code, as added by this Act,
26 applies only to a cause of action for which the associated election
27 occurred after the effective date of this Act.

S.B. No. 1

1 SECTION 10.04. This Act takes effect on the 91st day after
2 the last day of the legislative session.

S.B. No. 1

<hr/> President of the Senate	<hr/> Speaker of the House
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I hereby certify that S.B. No. 1 passed the Senate on August 12, 2021, by the following vote: Yeas 18, Nays 11; August 27, 2021, Senate refused to concur in House amendments and requested appointment of Conference Committee; August 29, 2021, House granted request of the Senate; August 31, 2021, Senate adopted Conference Committee Report by the following vote: Yeas 18, Nays 13.

<hr/> Secretary of the Senate

I hereby certify that S.B. No. 1 passed the House, with amendments, on August 27, 2021, by the following vote: Yeas 80, Nays 41, one present not voting; August 29, 2021, House granted request of the Senate for appointment of Conference Committee; August 31, 2021, House adopted Conference Committee Report by the following vote: Yeas 80, Nays 41, one present not voting.

<hr/> Chief Clerk of the House

Approved:

Date

Governor

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 87TH LEGISLATURE 2nd CALLED SESSION 2021

August 8, 2021

TO: Honorable Bryan Hughes, Chair, Senate Committee on State Affairs

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: SB1 by Hughes (Relating to election integrity and security, including by preventing fraud in the conduct of elections in this state; increasing criminal penalties; creating criminal offenses; providing civil penalties.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Election Code relating to voter registration, poll watchers, certain procedural requirements for state and county election officers, and voting by mail. It would increase criminal penalties for certain election offenses and establish certain civil penalties. It would require a voter registrar to provide notice of unlawful voting or registration to the Office of the Attorney General (OAG) and the Secretary of State (SOS) and would also require the SOS to obtain citizenship information from the Department of Public Safety (DPS) to compare on a monthly basis to voter registration records.

According to the OAG, the office does not anticipate that the legislation would give rise to civil enforcement actions as it is likely that most county registrars would take action to correct notices of noncompliance and that any instances of county registrar disobedience would not be difficult to litigate. The OAG anticipates an increase in cases as a result of the passage of the bill; however, the office assumes that any legal work resulting from the passage of this bill could be reasonably absorbed with current resources.

According to the Office of Court Administration, the bill would impose criminal penalties upon conduct which is not currently illegal and would enhance penalties on pre-existing crimes which may increase criminal caseloads before the courts. However, due to the deterrent effect of the new laws, it is not anticipated caseloads would increase significantly. Therefore, no significant fiscal impact to the state court system is anticipated.

According to the Comptroller of Public Accounts, although creating a new civil penalty or expanding liability related to a civil penalty could result in an increase to state revenue, this amount cannot be estimated.

According to DPS, no significant fiscal impact to the state is anticipated.

According to SOS, no significant fiscal impact to the state is anticipated.

This analysis assumes implementing the provisions of the bill addressing felony sanctions for criminal offenses would not result in a significant impact on state correctional agencies.

Local Government Impact

According to the Texas Association of Counties, the bill would have a significant fiscal impact on counties.

According to the Fort Bend County Election Administrator, the estimated fiscal impact of the bill would be between \$200,000 and \$12.0 million. The county states that the most significant component of this cost would be the replacement of voting systems to comply with the requirements of the bill at an estimated \$9.0 to \$12.0 million.

According to the Bexar County Election Administrator, the bill would result in an estimated fiscal impact of \$350,000 to \$13.0 million. The most significant component of this estimate would be due to the required replacement of voting systems. The county states that the provisions of the bill related to video surveillance, live streaming, and records retention would have significant costs that would vary by the number of elections held over the course of a year. According to the county, there would also be additional costs for reprinting new forms and envelopes, outreach for new mail ballot requirements, and providing processing for rejected voter applications.

According to the Cameron County Election Administrator, the bill would have an estimated annual fiscal impact of at least \$250,000 and an additional cost of over \$5.0 million for new equipment, the acquisition of surveillance equipment, and streaming and data storage.

A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both. Costs associated with enforcement, prosecution and confinement could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal implication.

Source Agencies: 212 Office of Court Admin, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 307 Secretary of State, 405 Department of Public Safety

LBB Staff: JMc, LBO, LCO, GP, CMA

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 87TH LEGISLATURE 2nd CALLED SESSION 2021

August 9, 2021

TO: Honorable Bryan Hughes, Chair, Senate Committee on State Affairs

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: SB1 by Hughes (relating to election integrity and security, including by preventing fraud in the conduct of elections in this state; increasing criminal penalties; creating criminal offenses; providing civil penalties.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Election Code relating to voter registration, poll watchers, certain procedural requirements for state and county election officers, and voting by mail. It would increase criminal penalties for certain election offenses and establish certain civil penalties. It would require a voter registrar to provide notice of unlawful voting or registration to the Office of the Attorney General (OAG) and the Secretary of State (SOS) and would also require the SOS to obtain citizenship information from the Department of Public Safety (DPS) to compare on a monthly basis to voter registration records.

According to the OAG, the office does not anticipate that the legislation would give rise to civil enforcement actions as it is likely that most county registrars would take action to correct notices of noncompliance and that any instances of county registrar disobedience would not be difficult to litigate. The OAG anticipates an increase in cases as a result of the passage of the bill; however, the office assumes that any legal work resulting from the passage of this bill could be reasonably absorbed with current resources.

According to the Office of Court Administration, the bill would impose criminal penalties upon conduct which is not currently illegal and would enhance penalties on pre-existing crimes which may increase criminal caseloads before the courts. However, due to the deterrent effect of the new laws, it is not anticipated caseloads would increase significantly. Therefore, no significant fiscal impact to the state court system is anticipated.

According to the Comptroller of Public Accounts, although creating a new civil penalty or expanding liability related to a civil penalty could result in an increase to state revenue, this amount cannot be estimated.

According to DPS, no significant fiscal impact to the state is anticipated.

According to SOS, no significant fiscal impact to the state is anticipated.

This analysis assumes implementing the provisions of the bill addressing felony sanctions for criminal offenses would not result in a significant impact on state correctional agencies.

Local Government Impact

According to the Texas Association of Counties, the bill would have a significant fiscal impact on counties.

According to the Fort Bend County Election Administrator, the estimated fiscal impact of the bill would be between \$200,000 and \$12.0 million. The county states that the most significant component of this cost would be the replacement of voting systems to comply with the requirements of the bill at an estimated \$9.0 to \$12.0 million.

According to the Bexar County Election Administrator, the bill would result in an estimated fiscal impact of \$350,000 to \$13.0 million. The most significant component of this estimate would be due to the required replacement of voting systems. The county states that the provisions of the bill related to video surveillance, live streaming, and records retention would have significant costs that would vary by the number of elections held over the course of a year. According to the county, there would also be additional costs for reprinting new forms and envelopes, outreach for new mail ballot requirements, and providing processing for rejected voter applications.

According to the Cameron County Election Administrator, the bill would have an estimated annual fiscal impact of at least \$250,000 and an additional cost of over \$5.0 million for new equipment, the acquisition of surveillance equipment, and streaming and data storage.

A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both. Costs associated with enforcement, prosecution and confinement could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal implication.

Source Agencies: 212 Office of Court Admin, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 307 Secretary of State, 405 Department of Public Safety

LBB Staff: JMc, LBO, CMA, LCO, GP

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 87TH LEGISLATURE 2nd CALLED SESSION 2021

August 21, 2021

TO: Honorable Trent Ashby, Chair, House Committee on Constitutional Rights & Remedies, Select

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: SB1 by Hughes (Relating to election integrity and security, including by preventing fraud in the conduct of elections in this state; increasing criminal penalties; creating criminal offenses; providing civil penalties.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Election Code relating to voter registration, poll watchers, certain procedural requirements for state and county election officers, and voting by mail. It would increase criminal penalties for certain election offenses and establish certain civil penalties. It would require a voter registrar to provide notice of unlawful voting or registration to the Office of the Attorney General (OAG) and the Secretary of State (SOS) and would also require the SOS to obtain citizenship information from the Department of Public Safety (DPS) to compare on a monthly basis to voter registration records.

According to the OAG, the office does not anticipate that the legislation would give rise to civil enforcement actions as it is likely that most county registrars would take action to correct notices of noncompliance and that any instances of county registrar disobedience would not be difficult to litigate. The OAG anticipates an increase in cases as a result of the passage of the bill; however, the office assumes that any legal work resulting from the passage of this bill could be reasonably absorbed with current resources.

According to the Office of Court Administration, the bill would impose criminal penalties upon conduct which is not currently illegal and would enhance penalties on pre-existing crimes which may increase criminal caseloads before the courts. However, due to the deterrent effect of the new laws, it is not anticipated caseloads would increase significantly. Therefore, no significant fiscal impact to the state court system is anticipated.

According to the Comptroller of Public Accounts, although creating a new civil penalty or expanding liability related to a civil penalty could result in an increase to state revenue, this amount cannot be estimated.

According to DPS, no significant fiscal impact to the state is anticipated.

According to the SOS, the provisions of the bill related to implementation of procedures within the statewide voter registration system to correct certain defects in mail ballots would impose costs for additional programming; however, these costs could be absorbed with existing resources.

This analysis assumes implementing the provisions of the bill addressing felony sanctions for criminal offenses would not result in a significant impact on state correctional agencies.

Local Government Impact

According to the Texas Association of Counties, the bill would have a significant fiscal impact on counties.

According to the Fort Bend County Election Administrator, the estimated fiscal impact of the bill would be between \$200,000 and \$12.0 million. The county states that the most significant component of this cost would be the replacement of voting systems to comply with the requirements of the bill at an estimated \$9.0 to \$12.0

million.

According to the Bexar County Election Administrator, the bill would result in an estimated fiscal impact of \$350,000 to \$13.0 million. The most significant component of this estimate would be due to the required replacement of voting systems. The county states that the provisions of the bill related to video surveillance, live streaming, and records retention would have significant costs that would vary by the number of elections held over the course of a year. According to the county, there would also be additional costs for reprinting new forms and envelopes, outreach for new mail ballot requirements, and providing processing for rejected voter applications.

According to the Cameron County Election Administrator, the bill would have an estimated annual fiscal impact of at least \$250,000 and an additional cost of over \$5.0 million for new equipment, the acquisition of surveillance equipment, and streaming and data storage

According to the Williamson County Election Administrator, the bill would have an estimated annual financial impact of between \$500,000 and \$5.0 million. The most significant component of this estimate would be due to the required replacement of voting systems. In addition, provisions of the bill related to video surveillance, live streaming, and records retention would have significant costs that would vary by the number of elections held over the course of a year. There would also be additional costs for reprinting new forms and envelopes, outreach for new mail ballot requirements, and providing processing for rejected voter applications.

A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both. Costs associated with enforcement, prosecution and confinement could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal implication.

Source Agencies: 212 Office of Court Admin, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 307 Secretary of State, 405 Department of Public Safety

LBB Staff: JMc, LBO, LCO, GP, CMA

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 87TH LEGISLATURE 2nd CALLED SESSION 2021

August 24, 2021

TO: Honorable Trent Ashby, Chair, House Committee on Constitutional Rights & Remedies, Select

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: SB1 by Hughes (relating to election integrity and security, including by preventing fraud in the conduct of elections in this state; increasing criminal penalties; creating criminal offenses.),
Committee Report 2nd House, Substituted

No significant fiscal implication to the State is anticipated.

This bill would amend the Election Code relating to voter registration, poll watchers, certain procedural requirements for state and county election officers, and voting by mail. It would increase criminal penalties for certain election offenses. It would require a voter registrar to provide notice of unlawful voting or registration to the Office of the Attorney General (OAG) and the Secretary of State (SOS).

According to the Office of Court Administration, the bill imposes criminal penalties upon conduct which is not currently illegal and enhances penalties on pre-existing crimes which may increase criminal caseloads before the courts. However, due to the deterrent effect of the new laws, it is not anticipated caseloads will increase significantly and no significant fiscal impact to the state court system is anticipated.

According to the OAG, the office anticipates an increase in cases as a result of the passage of this bill; however, the office assumes that any legal work resulting from the passage of this bill could be reasonably absorbed with current resources.

According to the Comptroller of Public Accounts, the extent to which creating a new offense or expanding an existing offense would impact state revenue cannot be estimated.

According to SOS, no significant fiscal impact to the state is anticipated.

This analysis assumes implementing the provisions of the bill addressing felony sanctions for criminal offenses would not result in a significant impact on state correctional agencies.

Local Government Impact

According to the Texas Association of Counties, the bill is not anticipated to have a significant fiscal impact on county election officials and election administrators.

According to the Election Administrators for Williamson and Chambers counties, the estimated fiscal impact of the bill would be \$10,000 and \$1,000, respectively, for the cost of replacing ballot-by-mail applications and carrier envelopes.

A Class B misdemeanor is punishable by a fine of not more than \$2,000, confinement in jail for a term not to exceed 180 days, or both. A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both. Costs associated with enforcement, prosecution and confinement could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal implication.

Source Agencies: 212 Office of Court Admin, 302 Office of the Attorney General, 304 Comptroller of Public Accounts,
307 Secretary of State

LBB Staff: JMc, LBO, LCO, GP

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATURE 2nd CALLED SESSION 2021

August 30, 2021

TO: Honorable Dan Patrick, Lieutenant Governor, Senate
Honorable Dade Phelan, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: SB1 by Hughes (relating to election integrity and security, including by preventing fraud in the conduct of elections in this state; increasing criminal penalties; creating criminal offenses.),
Conference Committee Report

Estimated Two-year Net Impact to General Revenue Related Funds for SB1, Conference Committee Report : an impact of \$0 through the biennium ending August 31, 2023.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five- Year Impact:

<i>Fiscal Year</i>	<i>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</i>
2022	\$0
2023	\$0
2024	\$0
2025	\$0
2026	(\$154,179,370)

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	<i>Probable Savings/(Cost) from General Revenue Fund 1</i>	<i>Change in Number of State Employees from FY 2021</i>
2022	\$0	0.0
2023	\$0	0.0
2024	\$0	0.0
2025	\$0	0.0
2026	(\$154,179,370)	0.0

Fiscal Analysis

This bill would amend the Election Code relating to voter registration, poll watchers, procedural requirements for state and county election officers, modifications of Election Day procedures, and voting by mail. It would increase criminal penalties for certain election offenses. It would require a voter registrar to provide notice of unlawful voting or registration to the Office of the Attorney General (OAG) and the Secretary of State (SOS).

According to the SOS, the agency would be required: 1) to develop a training course for voter registrars not in

compliance with certain requirements and, in certain instances, inform the OAG of failure to achieve substantial compliance following attendance at these courses; 2) to conduct periodic audits of elections in certain counties; 3) to develop and maintain a poll watcher training program; and 4) to make certain modifications to the Texas Election Administration Management (TEAM) mail ballot tracking system in order to allow voters to correct certain defects related to those ballots. It is anticipated that the cost of these provisions could be absorbed within existing resources of the agency. Additionally, the bill would require the SOS to reimburse certain changes to county voting counting systems that would be eligible for 100 percent reimbursement by the state.

According to the Office of Court Administration, the bill would impose criminal penalties upon conduct which is not currently illegal and would enhance penalties on preexisting crimes which could increase criminal caseloads before the courts. However, due to the deterrent effect of the new laws, it is not anticipated caseloads will increase significantly and no significant fiscal impact to the state court system is anticipated. This analysis assumes any increase in costs related to new civil penalties could be addressed with existing resources. It is assumed that any additional costs imposed on the Court of Criminal Appeals related to an authorization to issue a writ of mandamus in certain situations could be addressed with existing resources.

According to the OAG, the office anticipates an increase in cases as a result of the passage of this bill; however, the office assumes that any legal work resulting from the passage of this bill could be reasonably absorbed with current resources.

According to the Comptroller of Public Accounts, the extent to which creating a new offense or expanding an existing offense would impact state revenue cannot be estimated.

This analysis assumes implementing the provisions of the bill addressing felony sanctions for criminal offenses would not result in a significant impact on state correctional agencies.

Methodology

To address the provision of the bill related to reimbursement of local jurisdiction costs to convert scanners and central count computers to a configuration that utilizes write-once media, the SOS anticipates that all existing devices subject to the provisions of the bill would be required to be replaced. The cost of replacing hardware components, including new write-once media for every device in every election, is estimated by currently certified voting system vendors to be \$116,209,750. In addition, these vendors have estimated that the cost of replacing write-once removable media for all elections occurring in a biennium would result in a reimbursable cost of \$37,969,620. This cost would reoccur in each biennium thereafter. Because the write-only requirement would be required as of September 1, 2026, it is assumed that these costs would be incurred in fiscal year 2026.

Local Government Impact

According to the Texas Association of Counties, the bill would have a significant fiscal impact on counties.

According to the Fort Bend County Election Administrator, the estimated fiscal impact of the bill would be between \$200,000 and \$12.0 million. The county states that the most significant component of this cost would be the replacement of voting systems to comply with the requirements of the bill at an estimated \$9.0 to \$12.0 million.

According to the Bexar County Election Administrator, the bill would result in an estimated fiscal impact of \$350,000 to \$13.0 million. The most significant component of this estimate would be due to the required replacement of voting systems. The county states that the provisions of the bill related to video surveillance, live streaming, and records retention would have significant costs that would vary by the number of elections held over the course of a year. According to the county, there would also be additional costs for reprinting new forms and envelopes, outreach for new mail ballot requirements, and providing processing for rejected voter applications.

According to the Cameron County Election Administrator, the bill would have an estimated annual fiscal impact

of at least \$250,000 and an additional cost of over \$5.0 million for new equipment, the acquisition of surveillance equipment, and streaming and data storage

According to the Williamson County Election Administrator, the bill would have an estimated annual financial impact of between \$500,000 and \$5.0 million. The most significant component of this estimate would be due to the required replacement of voting systems. In addition, provisions of the bill related to video surveillance, live streaming, and records retention would have significant costs that would vary by the number of elections held over the course of a year. There would also be additional costs for reprinting new forms and envelopes, outreach for new mail ballot requirements, and providing processing for rejected voter applications.

A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both. Costs associated with enforcement, prosecution and confinement could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal implication.

Source Agencies: 212 Office of Court Admin, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 307 Secretary of State, 405 Department of Public Safety

LBB Staff: JMc, LCO, GP, LBO, CMA



MALDEF Written Testimony Before House Select Committee on Constitutional Rights
and Remedies Against Senate Bill 1

August 23, 2021

Chairman Ashby, Vice-Chairman Thompson, and members of the Committee,

My name is Fatima Menendez and I am a Legislative Staff Attorney with MALDEF, the Mexican American Legal Defense and Educational Fund, Inc. Founded in 1968, MALDEF is the nation's leading organization that litigates civil rights cases on behalf of Latinos in the United States.

MALDEF opposes Senate Bill 1. My testimony today will focus on specific provisions of this bill, but we oppose the bill in its entirety.

Overall, SB1 ignores the election security measures already contained in the Texas Election Code, lacks justification for its further restrictions on voting, and violates federal law with several provisions that limit voting rights guaranteed by federal statutes.

Article 5 deprives voters of lawful assistance

Article 5 of the bill interferes with voter assistance and will have a disparate, negative impact on Latino and Asian American voters. Assistors are relied upon by limited English proficient voters in order to cast their ballots. For example, one in ten U.S. born Latino adults does not speak English well.¹ Slightly more than half of naturalized U.S. citizens who are Latino do not speak English well.² Texas is home to close to two million naturalized U.S. citizens.³ These individuals, who are eligible to vote, are also eligible to receive language assistance when casting their ballots.

Article 5 places unnecessary obstacles in the way of voter assistance in the polling place. Section 5.04 requires the assistor to swear an oath under penalty of perjury stating that the assistor secured a statement of eligibility from the voter. The oath further requires

¹ Pew Research Center, "English Proficiency on the Rise Among Latinos," May 12, 2015, available at <https://www.pewresearch.org/hispanic/2015/05/12/english-proficiency-on-the-rise-among-latinos>.

² U.S. Department of Commerce, "Language Use in the United States: 2011," August 2013, available at <https://www2.census.gov/library/publications/2013/acs/acs-22/acs-22.pdf>.

³ Migration Policy Institute, "2019 State Immigration Data Profiles (Texas)," available at <https://www.migrationpolicy.org/data/state-profiles/state/demographics/TX>.

the assistor to swear that the assistor did not “encourage” the voter to choose them. Section 5.03 requires the assistor to complete a form stating the assistor’s name and address and relationship of the assistor to the voter. Section 5.01 requires persons who assist voters by simultaneously transporting three or more voters to a polling place to submit a form that contains the assistor’s name and address and whether the person is solely providing transportation or additional assistance.

Article 5 will deter individuals from providing assistance to voters and deny voters the assistance to which they are legally entitled. Assistors who are concerned about providing personal information to polling place officials, as well as those who are concerned about making an error in providing assistance, will simply refuse to provide assistance even when a voter requests it of them. Voters who need assistance will forgo it if they don’t want to reveal private information when explaining their eligibility for assistance. None of these new requirements are in the federal voter assistance law, and SB1 will result in voters who need assistance going without it.

Article 5 will also slow down the voting process and increase wait times at polling places in predominantly Latino neighborhoods. Requiring assistors to fill out new forms, and take longer oaths, will take time even when the assistors are willing to comply with these new requirements. At polling places where there are more voters who need language assistance, the lines will slow down, voters will be forced to wait longer to vote, and some will leave before voting in order to meet work and family commitments.

Sections 5.01, 5.03, 5.04, not only have a disparate, negative impact on Latino and Asian American voters, the provisions violate Section 208 of the federal Voting Rights Act.⁴ For example, section 5.04 adds language to the assistor’s oath that conflicts with Section 208 of the federal Voting Rights Act because federal law does not require that the voter declare eligibility for assistance.

Section 5.04 also requires the assistor to swear that they “did not encourage” the voter to choose them to provide assistance. This language violates the First Amendment to the U.S. Constitution and Section 208 of the federal Voting Rights Act because individuals have the right to encourage a voter to rely on them for assistance and voters have the right to choose an assistor who encourages the voter to use them. Finally, the oath includes language that “if assistance is provided to a voter who is not eligible for assistance, the voter’s ballot may not be counted.” This language will cause assistors to inquire into the voter’s need for assistance in order to make sure the ballot is counted later; this invades the voter’s privacy and interferes with the right to vote with assistance.

None of these new requirements are based on any evidence that voters who need assistance because of limited English proficiency or disability are involved in fraud.

Article 1 improperly targets voters for investigation

Sections 1.05 and 1.08 impose unnecessary obligations on the Secretary of State and the Office of the Attorney General. In Texas, it is a routine occurrence for individuals

⁴ See 52 U.S.C. § 10508.

to live temporarily away from the address where they are registered to vote. These provisions force the Secretary of State and the Attorney General into quarterly analysis of lists of individuals excused from jury duty simply because they are temporarily living away from their registered voter address.

The fact that someone is living away from his or her voter registration address is not evidence of voter fraud. It is not an offense to move away from the address at which you are registered to vote and it is a common circumstance. Young adults move away from their parents' homes to attend college or serve in the military. Other adults move away from their voter registration address for a new job or for a host of other reasons. When any of these individuals respond to a jury summons questionnaire and truthfully state that they are not residing at their voter registration address, there is no evidence of an "offense under Section 13.007 or other law." There is no requirement in Texas law to cancel your voter registration when you reside elsewhere, and the decision whether to register to vote at a new address depends on whether the individual considers herself to have changed domicile.

Requiring the Secretary of State and Office of the Attorney General to compare lists of people excused from jury duty for non-residence in the county to lists of registered voters, and having the county or district attorney or Attorney General investigate whether a person committed an offense under Section 13.007, are wastes of resources and do not advance any interest in combatting fraud. The relevant offense under the Election Code -- making a false statement when registering to vote -- is simply not implicated months or years later when a registered voter is excused from jury duty because that voter is living out of the county at the time he or she is summoned.

Section 1.03 requires a voter registrar to refer to the Attorney General, Secretary of State and local prosecutor any person who the registrar determines is not eligible to vote and registered to vote or voted in an election. This provision creates a requirement to refer voters to law enforcement who in reality may or may not have registered while ineligible.

For example, Section 1.03 is not tied to a time period so it sweeps in voters who are eligible at the time they register but who become ineligible at a later point in time. There are many voters in this situation. For example, a young person who registers to vote at her home address with her parents, but then moves away permanently to another county, remains on the voter rolls as a registered voter at her parents' address but at that point is ineligible to vote in that county. That voter can be referred to law enforcement by the registrar as, "a person who is not eligible to vote registered to vote." However, it's not a crime to remain on the voter rolls after becoming ineligible and thus all of these referrals would be inappropriate harassment of voters and possibly unconstitutional.

Section 1.03 provides no standards and will lead to improper targeting of voters on the rolls who share a name or other information with an ineligible individual. For example, a father and son with the same name can reside at the same address. The father could be excused from jury duty for non-U.S. citizenship and the son could be a U.S. citizen properly registered to vote.

If registrars refer voters to law enforcement based on "weak" matching criteria, such as in the previous example, this would unconstitutionally infringe on the right to vote.

Sections 1.03 will result in properly registered and qualified voters, particularly Latinos, being challenged for lack of U.S. citizenship when there is no evidence of wrongdoing. Falsely accused of illegal conduct, many of these voters will be improperly purged from the rolls or deterred from voting even though they have every right to vote.

SB1 invites voter intimidation by poll watchers

Sections 3.03, 3.04, and 3.06 strip voters of the protections of privacy and security in the polling place and invite vigilantism by poll watchers who would be allowed to remain in the polling place even if they were intimidating voters and interfering with the voting process. Section 3.04 provides that poll watchers should be able to "sit or stand near enough to see and hear the activity or procedure" they are observing, which effectively removes the requirement that watchers maintain their distance from voters who are marking their ballots. Section 3.04 also prohibits a watcher from being denied "free movement where election activity is occurring." Allowing poll watchers to roam around the inside of a polling place and stand close to voters and election workers is entirely unnecessary. In addition to these sections, Section 5.01 allows poll watchers to get close to voters receiving assistance from elected officials and watch them vote by allowing poll watchers to "observe any activity conducted under this section."

The only effect of allowing poll watchers to roam around, stand near voters, and even disrupt the activities inside a polling place is to make voters uncomfortable and less likely to remain in the polling place and vote. Section 3.06 creates an offense for election officers who knowingly prevent a watcher from observing an action or procedure the person knows the watcher is entitled to observe. This includes any action to obstruct the view of a watcher or action to position a watcher at a distance from the activity or procedure the watcher wishes to observe but is not reasonably able to do so from that position. Section 3.03 makes it a crime for an election officer to refuse to accept a poll watcher for service. This crime is punishable by up to one year in jail, a fine of as much as \$4,000, or both. This provision ensures that not only will voters be intimidated by unrestrained poll watchers, but election officials will also be intimidated by the threat of severe penalties for trying to protect voters from poll watcher interference.

Latino voters in Texas have borne the brunt of more than a century of voter intimidation by vigilantes as well as official law enforcement. In just one example, in 1928, the Weslaco barrio election box was assailed by the local "Good Government League." According to a federal report, a crowd of 3,000 to 4,000 Anglos at the polling place shouted "Don't let those Mexicans in to vote. Throw them out." while men with shotguns protected the crowd. An estimated 200 to 300 regular Mexican American voters "did not show up at all."⁵ In another example, a South Texas lawyer, Marshall Hicks, testified in a Texas Senate investigation that his client's opponent, D.W. Glasscock had the Texas Rangers selectively "investigate" Mexican American voters, and spread "a spirit of

⁵ Anders, Evan. *Boss Rule in South Texas: The Progressive Era*. Austin: University of Texas, 1982, p. 224-6, 239, 269; Montejano, David. *Anglos and Mexicans in the Making of Texas, 1836-1886*. Austin: University of Texas Press, 1987, p. 147.

terrorism among those Mexican people.” Historian Evan Anders noted in his book that “the mere presence of armed Rangers at the polling stations had an intimidating effect on the Hispanic population” in Cameron, Duval, Nueces, Hidalgo, and Starr Counties.⁶

Before you dismiss these examples of racially-motivated voter intimidation as relics of the past, note that as recently as January 2021, the U.S. Capitol invaders displayed racist messages and flaunted nooses in their effort to stop certification of an election they claimed was infected by voter fraud.⁷ There is every reason to believe that removing security measures inside polling places will result in more intimidation of Latino voters. Now is not the time for the Texas Legislature to rescind laws that guarantee a safe and secure environment for voters inside the polling place and to strip polling place officials of the authority to remove poll watchers who disrupt voting.

SB1 makes voting more difficult without justification

Other provisions in Articles 2, 4, and 6 make voting more difficult for no reason at all. Limiting the types of buildings that can serve as polling places, limiting the hours of operation of polling places, prohibiting the solicitation and affirmative distribution of mail ballot applications, and criminalizing community-based voter outreach when organizations pay their outreach workers to assist elderly and home-bound voters who vote by mail, will unnecessarily impede voter participation and reduce the number of votes cast by eligible voters.

MALDEF urges the Committee to take into consideration the many flaws in Senate Bill 1 and reject this bill.

Thank you for your time.

⁶ Anders, Evan. *Boss Rule in South Texas: The Progressive Era*. Austin: University of Texas, 1982, p. 252, 257, 263; Montejano, David. *Anglos and Mexicans in the Making of Texas, 1836-1886*. Austin: University of Texas Press, 1987, p. 145-7.

⁷ Associated Press, *Years of white supremacy threats culminated in Capitol riots*, available at <https://apnews.com/article/white-supremacy-threats-capitol-riots-2d4ba4d1a3d55197489d773b3e0b0f32>.

RE: Luis Testimony in Opposition to SB 1: Related to Election Integrity and Security

Dear Chair Ashby and Members of the House Committee on Constitutional Rights and Remedies:

Every Texan (formerly Center for Public Policy Priorities), appreciates the opportunity to submit testimony related to HB 3: Election Integrity and Security

Every Texas opposes Senate Bill 1 for the following reasons:

As the 87th Legislative Session begins its first special session on July 8 to address voting legislation that failed in the regular session, it is important for the public and the legislative members to consider the context of this proposal. Electoral reform proposals do not happen in a vacuum, there is history in Texas of using false allegations of voter fraud or election integrity as a proxy for voter suppression. So much so that for years, Texas had to get prior approval from the U.S. Department of Justice for any electoral change according to Section 5 of the Voting Rights Act.

As the demographic makeup of the state has evolved, voter discrimination efforts have intensified. Texas is home to the second-largest Latino population in the United States, and demographic projections show that by 2040, Latinos will constitute the majority of citizens in the state. Texas also has a Black population of more than two million and a consistently growing Asian American population. This makes Texas an ethnic minority majority state in total population but not in voting strength. The increasing number of racial and ethnic groups in Texas highlights the need to vigilantly protect the voice and electoral rights of the state's Latino, Black, and Asian American electorate.

Section 5 of the Voting Rights Act, the preclearance requirement, was enacted to prevent changes in election practices or procedures in covered jurisdictions until the new procedures were determined to have neither discriminatory purpose or effect. Changes such as removing polling locations, adding new identity documentation, or the procedures for mail in ballots would have to be approved to ensure Latinos, Blacks and Asian voting power was not retrogressed. It was considered the heart of the Voting Rights Act because it stopped voter discrimination before it happened and placed the burden on the state to prove that electoral changes on the state or local level would not put Latino, Black or Asian American voters in a worse position in terms of electoral power. It was extended to Texas in 1975 due to the state's history of excluding Mexican Americans from the political process. At the time, Texas led the nation in several categories of voting discrimination, including then-recent Section 5 violations and Section 2 challenges.

Since 1982, there have been at least 30 successful Section 5 enforcement actions in which the Department of Justice has participated prior to the *Shelby County v. Holder* 570 U.S. 529 (2013) U.S. Supreme Court decision that struck down the coverage formula for Section 5 of the Voting Rights Act. When the Supreme Court struck down the formula that Congress enacted on which states and jurisdictions section 5 could be applied to, it effectively gutted the enforcement of the act. Without Section 5 protection, Texas officials are free to discriminate and enact voting changes that will reduce the voting power of ethnic and racial minorities until these communities bring a lawsuit and prove the discrimination often after the impact.

With or without Section 5, local county election officials are on the front lines to make sure voting is secure and accessible to all. Traditionally, county election officials are given a fair amount of leeway

to implement and conduct elections with guidance from the Secretary of State. Even with Section 5, Texas consistently ranks at the bottom in voting turnout – usually around 11th from the bottom of all states.¹ During the pandemic, counties like Harris County Bexar, and Travis County, attempted to make voting safer by instituting more mobile voting sites, drive-thru voting procedures, expanded hours for polling locations, and mail-in ballot access for eligible voters. These procedures did not alter any state law requirements. In fact, Secretary of State Ruth Hughs confirmed that Texas had a smooth and secure election in 2020.

Texas has a longstanding history of secure elections and efforts by Attorney General Paxton and Governor Abbott to ferret out voter fraud over the years has remarkably shown just the opposite. Despite Texas having a longstanding history of secure elections, conservative legislators ramrodded Senate Bill 7 was through the legislative process in the regular session. Committee hearings were cancelled unceremoniously with witnesses unable to give testimony, questions from legislators went unanswered, and large sections of the bill were redrafted and changed at the last minute with little to no transparency. Advocates expressed concerns that the effects of SB 7 will almost certainly make voting even harder for groups that Texas voting rules have long marginalized — voters of color, voters with disabilities, low-income voters, and voters with limited English proficiency — and who are the most likely to be shut out when voting procedures are tightened.

Passing legislation in this manner diminishes the faith of the electorate in the voting process and contributes to the false narrative that elections are rigged. In the end, the institution of Democracy itself is diminished.

This can have lasting impacts. Youth who reported having been either encouraged to vote or taught how to register to vote in high school are more likely to vote and participate in other civic activities, more knowledgeable about voting processes, and more invested in and attentive to the 2020 election than other youth, but two out of every three white students (67%) remember having being encouraged to vote in high school compared with one in two Black students (54%).² According to Barry Burden, a professor of political science and director of the Elections Research Center at UW-Madison, “research shows that the healthier you are, the more likely you are to cast a ballot.” Research also shows that voting can actually make people healthier. “When a person is involved with civic life, they are social, efficacious, and participating,” says Burden.³

The shared prosperity from having a strong electoral presence from every walk of life in Texas explains why the Perryman Group implemented an extensive modeling process to measure economic effects of restricting voter access stemming from several primary sources and found that hundreds of thousands of Texas jobs are at stake.⁴ The Perryman Research has shown that, controlling for other factors, increases (decreases) in voting access leads to higher (lower) earning over time. Lower earnings also impact workforce participation and employment. In addition, reduced earnings negatively affect household budgets and therefore consumer spending. The Perryman Group estimates that measures restricting voter access would lead to a total decrease in business activity from lower earnings & employment losses and reduced household purchasing power in the state by 2025 of an estimated - \$14.7 billion in annual gross product and a loss of -73,249 jobs including multiplier effects.

For this reasons, Every Texan respectfully asks the members of this committee to oppose Senate Bill 1.



1716 San Antonio St.
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Texans with disabilities deserve the same protections and access to private, lawful voting that other Texans have — even if the way we do that might look a little different. We believe that all Texans with disabilities should have the ability to cast the most secure and private ballot as independently as possible. No matter if they cast their vote on an accessible voting machine at a polling location or through a Mail-In-Ballot in their home.

The way to securing the ballots of Texans with disabilities is by limiting the amount of assistance a person needs or their need to rely on a witness to complete their ballot and sign them.

While we're talking integrity and security, there are bills this past regular session that gave legislators opportunities to continue that arc of inclusion and a more secure ballot: **Allowing voters to cure mail-in ballots disqualified through signature verification immediately, rather than waiting 10 days after an election to notify the voter and making mail-in ballots accessible to voters with blindness with Accessible (ADA) Compliant Absentee/Mail in Ballot Solutions, something we already provide to overseas active military personnel. We recommend these issues be included in any upcoming special session.**

Election integrity and improved voter access are important goals with strong support across Texas. But election measures lose any semblance of integrity if they cross the line into interfering with the reasonable, necessary and legally protected accommodations the millions of Texans living with disabilities need to make their voices heard in our democracy.

Texas Secretary of State's Director of Elections acknowledged- *"that the existing signature-comparison procedures may result in certain mail-in ballots being improperly rejected."*

And as a result of the implemented procedures, the record demonstrates that Texas counties rejected at least 3,746 mail in ballots during the 2018 general election and at least 1,567 mail-in ballots during the 2016 general election solely on the basis of mismatching signatures."

As a leading voice in the disability community we strongly support the recommendations below to ensure integrity and security in our election process.

- **Providing voters, the opportunity to cure the issue.**

Legislation during the regular and special session proposed provisions that would require clerks to notify voters of minor issues with their mail ballots (missing/mismatched voter signatures, missing witness/assistant information etc.) and provide them an opportunity to correct the issue by returning a statement with their identifying information and the missing information. The current SB 1 cure language is missing vital corrections to make it functional and effective. We urge this committee to take this opportunity to strengthen election integrity by making the following improvements to the cure provisions in SB 1:

1. Notice of ballot errors to voters and cure should be mandatory, not discretionary. HB3 currently has this requirement.

2. Give voters until six days after Election Day to complete cure. HB3 currently includes this provision.
3. Require DPS to transmit ID numbers in its possession to the Secretary of State to update voter registration records. SB1 already requires DPS to transmit voter signatures so adding ID numbers would not be burdensome.
4. Give voters notice of ID number errors on ballot applications so they can use the remote system to cure.
5. Allow voters to cure other issues, such as missing statements of residence, remotely via the online tracking tool.

- **Unequal access to absentee mail voting for Texans with disabilities:**

Texas still does not offer an accessible alternative to mail in ballot forcing voters to disclose their voting selections to a person assisting them to vote a paper absentee or mail ballot. **Voters with disabilities are the only group of eligible absentee mail voters that must go to a polling location if they wish to vote independently.** Non-disabled voters can vote independently from home, whereas voters with disabilities often cannot.

Governor Abbott's Committee on Disabilities in its 2020-2021 Biennium Policy Recommendations emphasized the importance of ensuring access to accessible ADA compliant mail in ballots.

"As in many areas of life, the use of technology in voting is increasingly more common. Compliance with accessibility standards in voting machine technologies has resulted in a secret ballot for voters with disabilities who had previously not enjoyed this valued right. Stakeholders from local jurisdictions describe barriers to independently casting a secret ballot using an inaccessible paper absentee ballot form. The market place of elections systems has responded to the need for accessible absentee ballot and provided solutions to address the need for accessibility at all phases of the elections process.

Additionally, in a Report to the 85th Legislature on Section 105.004 of the Texas Election Code Relating to a Program Allowing Certain Military Voters on Active Duty Overseas to Cast a Ballot Electronically the Secretary of State's Elections Division demonstrated in a pilot program that it is possible to allow voters to cast an absentee independent secret ballot in a secure manner using an information technology solution. These same solutions that benefit overseas members of the military may also benefit many Texas voters with disabilities who have a need to vote absentee. As technology expands into other voting-related practices, the Texas Election Code should be updated to require that all aspects of voting - voter registration, early voting, absentee voting and Election Day voting - be secure and accessible to people with disabilities.

Solution: In order to remedy these violations, states have begun to deploy accessible (ADA) compliant absentee vote by mail solutions. Over the last seven years, the availability of proven, secure and

accessible absentee mail balloting has enabled voters with disabilities to access and mark mail ballots in a secure, private and independent manner. Similar to UOCAVA MOVE Act ballot delivery systems, these solutions deliver a fully accessible, audio-enabled, secure ballot and ballot materials in a fully ADA-compliant manner. Equal access to voting does not stop at the polls. It also extends to absentee mail balloting."

Florida Legislation AVBM

101.662 Accessibility of vote-by-mail ballots.—It is the intent of the Legislature that voting by vote-by-mail ballot be by methods that are fully accessible to all voters, including voters having a disability. The Department of State shall work with the supervisors of elections and the disability community to develop and implement procedures and technologies, as possible, which will include procedures for providing vote-by-mail ballots, upon request, in alternative formats that will allow all voters to cast a secret, independent, and verifiable vote-by-mail ballot without the assistance of another person.

- **Accommodation for certain Texans with disabilities to use a signature stamp vs. a witness:**

Many in the disability community, especially those with limited arm function or hand dexterity, use a signature stamp to legally sign all of their documents, and this is how they have signed their voter registration forms, mail-in ballot applications in the past. Statute must acknowledge that this widely-accepted practice is extended into voting law. The way to securing the ballots of Texans with disabilities is by limiting the amount of assistance a person needs or their need to rely on a witness to complete their forms and sign them.

The use of a signature stamp is a reasonable accommodation to allow for a private, independent, and secure voting experience. We believe the SOS's current opinion that a person who cannot sign their name do to a disability be required to use a witness instead of their stamp does nothing to ensure a secure and private ballot.

By disallowing someone the use of a signature stamp "simply because it can be stolen and used outside of somebody's knowledge," as the state is on record of saying does nothing to stop a person who is wishing to commit fraud from committing fraud. Under Sec. 1.011, all a person would need to do if they were dead set on committing voter fraud is place any mark or an "X" on a person's mail-in-ballot, then sign someone else's name on the witness line and add an address. By doing so under [Sec. 87.041(b)(2)] of the election code, it would be accepted by the Signature Verification Board, pending all other qualifications were met.

Texas elections will be safer and more equitable if our state lawmakers create processes that ensure voters with disabilities can exercise their constitutional right to vote independently, privately, and in the security of their own homes if they cannot access their local polling place.

For A Barrier Free Texas,



Chase Bearden

Deputy Director, Coalition of Texans with Disabilities

Cell 512-415-9699 - cbearden@txdisabilities.org

FLOOR AMENDMENT NO. _____

BY: _____

Amend H.B. No. 3 (committee report) as follows:

- (1) On page 17, line 3, between "license" and "or", by inserting ", election identification certificate,".
- (2) On page 18, line 10, between "license" and "or", by inserting ", election identification certificate,".
- (3) On page 20, lines 22-23, by striking "match the information" and replacing it with "identify the same voter identified".
- (4) On page 20, between lines 24-25, by inserting:

" (g) In making the determination under Subsection (f), to determine whether the information provided by the voter pursuant to Section 84.002(a)(1-a) identifies the same voter identified on the voter's application for voter registration under Section 13.002(c)(8), the clerk shall request from the Department of Public Safety any driver's license, election identification certificate, or personal identification card number belonging to the voter on file with that department and compare the number on the ballot application with any number provided.

(h) Prior to rejecting an application pursuant to Subsection (f), the clerk shall attempt to notify the voter of the basis for possible rejection of the application by any means reasonably calculated to make contact with the voter and to inform the voter that they may come to the early voting clerk's office in person or use the online tool described by Section 86.015 to correct the information required by Section 84.002(a)(1-a) not later than four business days after the clerk attempts to provide notice."
- (5) On page 21, line 3, between "license" and "or", by inserting ", election identification certificate,".
- (6) On page 21, line 11, between "license" and "or", by inserting ", election identification certificate,".
- (7) On page 22, lines 19-20, between "mail," and "(1)", by inserting:

"(1) for which the voter failed to provide the information required by Section 86.002(g);
(2) for which the information required by Section 86.002(g) provided by the voter does not identify the same voter identified in the voter's application for registration under Section 13.002(c)(8);" and renumbering the remaining subsections of Section 87.0271 accordingly,
- (8) On page 23, line 13, between "person" and "not", by inserting "or use the online tool described by Section 86.015".

- (9) Strike lines 15-18 on page 23 and renumber the remaining sections of proposed Section 87.0271 accordingly.
- (10) On page 24, line 26, by striking "matches the information" and replacing it with "identifies the same voter identified".
- (11) On page 25, line 2, by striking "matches the information" and replacing it with "identifies the same voter identified".
- (12) On page 25, between lines 17-18, by inserting:
"(f) In making the determination under Subsection (b)(8), to determine whether the information provided by the voter pursuant to Section 86.002(g) identifies the same voter identified on the voter's application for voter registration under Section 13.002(c)(8), the board shall request from the Department of Public Safety any driver's license, election identification certificate, or personal identification card number belonging to the voter on file with that department and compare the numbers on the ballot application and the carrier envelope certificate with any number provided."
- (13) On page 25, lines 22-23, between "mail:" and "(1)", by inserting:
"(1) for which the voter failed to provide the information required by Section 86.002(g); (2) for which the information required by Section 86.002(g) provided by the voter does not identify the same voter identified in the voter's application for registration under Section 13.002(c)(8)." and renumbering the remaining subsections of Section 87.0411 accordingly.
- (14) On page 26, line 16, between "person" and "not", by inserting "or use the online tool described by Section 86.015".
- (15) Strike lines 18-21 on page 26 and renumber the remaining sections of proposed Section 87.0271 accordingly.
- (16) In Article 5, by adding a section to read as follows:

"SECTION 5. __. Section 86.015(c), Election Code, as effective September 1, 2021, is amended to read as follows:

(c) An online tool used under this section must:

(1) for each election, record:

(A) each application for a ballot to be voted by mail received by the clerk; and

(B) each carrier envelope sent to a voter by the clerk;

(2) for each carrier envelope, record or assign a serially numbered and sequentially issued barcode or tracking number that is unique to each envelope; ~~and~~

(3) update the applicable Internet website as soon as practicable after each of the following events occurs:

(A) receipt by the early voting clerk of the person's application for a ballot to be voted by mail;

(B) acceptance or rejection by the early voting clerk of the person's application for a ballot to be voted by mail;

(C) placement in the mail by the early voting clerk of the person's official ballot;

(D) receipt by the early voting clerk of the person's marked ballot; and

(E) acceptance or rejection by the early voting ballot board of a person's marked ballot; ~~and~~

(4) allow a voter to add or correct information required under Section 84.002(a)(1-a), Section 86.002(g), or a statement of residence required under Section 87.041(b)(6)."

(17) Renumbering the remaining sections of Article 5 accordingly.



Achieve with us.

**Constitutional Rights & Remedies, Select Committee
Regarding SB1
August 23, 2021**

Testimony by Alex Cogan, LMSW, Manager of Public Policy and Advocacy, The Arc of Texas

Thank you for the opportunity to provide input on SB1, a bill The Arc of Texas opposes, as it puts voting rights for people with disabilities in jeopardy. My name is Alex Cogan, and I am Manager of Public Policy and Advocacy for The Arc of Texas. The Arc of Texas promotes, protects, and advocates for the human rights and self-determination of Texans with intellectual and developmental disabilities (IDD), and this includes ensuring Texans with disabilities can vote privately and independently with proper access, accommodations, and support.

There are multiple provisions in SB1 that specifically interfere with the ability of Texans with disabilities to participate in the democratic process, a direct counter to the election integrity and security bill that authors claim is the purpose of the legislation. Access to the electoral process for all eligible Texas voters, which includes people with IDD, is something every Texan, and specifically every elected legislator, should seek. We know that public confidence in our democratic system requires that *all* eligible voters can participate in the process and have their vote counted. But that public confidence is waning when bills like SB1 are fast-tracked through the process with little to no opportunity for the public, and most importantly people with disabilities, to provide virtual comments.

The Arc of Texas opposes the below provisions in SB1 because they infringe on the civil rights of Texans with disabilities and their ability to vote. The added requirements and enhanced penalties to people with disabilities and the supporters they select to assist them fundamentally discourages the participation of those with disabilities to vote with accommodations and supports. This is not only immoral, but it is also illegal.

- **Section 4.11, Inhibits Texans without a consistent signature from voting**

This section penalizes individuals with neurological disabilities. Allowing a signature verification committee to use any known signature as comparison for a voter by mail does not consider the reality of some Texans with disabilities, whose signature can change due to their disability. For example, people with cerebral palsy, visual impairments, and/or other disabilities frequently do not sign their name consistently because it is physically an impossible request to fulfill.

- **Section 4.01, Limits the use of signature accommodations**

This section requires a signature to be "ink on paper," which does not allow Texans with disabilities to utilize a reasonable accommodation through the Americans with Disabilities Act. Again, this provision does not consider the reality of voters with disabilities' actual support needs. For example, some individuals may not have the ability to hold a pen or the dexterity to traditionally sign so they may require the use of a signature stamp.

- **Sections 5.03 and 5.04, Adds unnecessary and excessive requirements for individuals who assist voters with disabilities**

These sections require people who assist voters with a disability to complete a form affirming that they "did not encourage [...] the voter into choosing" the assistant. It is not uncommon for a friend or colleague

Testimony of Robert L. Green to Sen. Brian Hughes and all members the House Select Committee on Constitutional Rights and Remedies on 8/23/21:

My name is Robert L Green. I am the Chair of the Travis County Republican Party Election Integrity Committee. I have been a precinct chair and an election judge for over 10 years now; and I'm here today, as previously this year, representing my committee members whose efforts are backed by my county party. I am also here representing myself as a constituent of House District 49 and Senate District 14.

I support C.S.S.B. 1 and the provisions therein that make it easier for an identified and eligible individual to vote legally in an election, but harder for any individual, group and/or election official to cheat and not get caught. And finally, I want to keep my elected officials, Rep. Gina Hinojosa and Sen. Sarah Eckhardt, accountable to me and to the people of this state. I'm calling them out here because they and others have NOT been doing the job that they were elected to do...that is, to debate Bills that are placed before them, offer amendments that will improve the effectiveness of the legislation, and then make an up or down vote on passage.

The questions that I would have for anyone who opposes C.S.S.B. 1 are these:

- 1) Why would you object to a person who registers to vote; applies for a mail-in/absentee ballot; votes by mail or votes in person from being required to provide a government issued photo ID to do so?**
- 2) Why would you object to the coordination between state agencies to facilitate the frequent scrubbing of voter rolls to remove the deceased, those who have moved out of the county, non-citizens and felons who have not completed all tasks necessary to have their voting rights restored?**
- 3) Why would you object to punishing individuals or election officials who knowingly violate provisions of our Texas Election Code with the intent to manipulate the outcome of an election?**
- 4) Why would you object to a transparent election process that includes effective observation (by watchers) of the chain of custody for flash drives and paper ballots at all stages...from every polling place to the central counting location, to the secure storage of paper ballots to the actual counting of votes in a counting machine that has been tested for accuracy, security sealed before use after testing, is not programable, and cannot be, in any way, connected to the internet.**
- 5) Why would you object to having uniform voting rules like these for all counties in Texas?**

Despite the repeated public regurgitation of "talking points" by the Democrats who have repeatedly obstructed passage of this legislation to the point of deserting their duty station at the Capitol, fleeing the state to prevent a quorum and a vote by the full House, NO proposed provision in CSSB 1 is "racist," discriminatory to any minority group, to anyone with a disability, or an any way constitutes "voter suppression."

Thank you for your kind attention; now please pass this bill out to the full House with a recommendation that it do pass.



309 East 11th St., Suite 2 • Austin, Texas 78701 • 512.477.1155 • www.citizen.org

To the members of the House Select Committee on Constitutional Rights & Remedies.
Via hand delivery.

August 23, 2021

Re: SB 1, “election integrity” - Opposition Testimony by Public Citizen

Dear Chairman Ashby and members of the committee:

Public Citizen appreciates the opportunity to testify against SB, relating to election integrity and security, including by preventing fraud in the conduct of elections in this state; increasing criminal penalties; creating criminal offenses; providing civil penalties.

The Human Cost of Voter Suppression.

We oppose this legislation because we believe that it will have the effect—intended or not—of suppressing votes. This effect will fall disproportionately on black and brown people, Native Americans, voters with disabilities, veterans and members of the military, non-native English speakers, rural voters and low-income Texans — communities who for generations have been the victims of systematic disenfranchisement.

Right now in Texas and across the nation there is a systematic effort to undermine confidence in elections. It has played out in state legislatures ever since key portions of the Voting Rights Act were overturned by the Supreme Court in *Shelby County v. Holder*. It plays a role in the perpetuation of the “Big Lie” by former president Donald Trump. It is part of a deliberate, concentrated effort to subvert democracy by controlling who has access to the polls. This trend must be reversed in Texas and across the United States. To that end we are also advocating in Congress passage of HR 1 the For the People Act, and HR 4, the John R. Lewis Voting Rights Advancement Act.

There are real human costs to voter suppression. Crystal Mason and Hervis Rogers—both of whom are black—were convicted and charged, respectively, with violating elections laws. They face penalties that are disproportionate to their crimes, which occurred without intent. We can’t help but see them as victims of a propaganda effort to undermine democracy. Their treatment is shameful. Their prosecution by the office of Attorney General Ken Paxton is emblematic of the two-tiered justice system at work in America.¹

¹ See my recent commentary in the San Antonio Express News, “Paxton exemplifies two-tiered justice system” available at <https://www.expressnews.com/opinion/commentary/article/Commentary-Paxton-exemplifies-two-tiered-justice-16340789.php>.



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We urge you not to pass this legislation. Testimony by the AG's office in previous hearings on this legislation has presented the numbers. Voter fraud is vanishingly rare. The examples of voter fraud being prosecuted by the AG's office in the last decade number in the few hundreds, the individuals being prosecuted in the tens. *There has never been a conviction of an intentional case of voter fraud in Texas.* More than 11 million Texans voted in the 2020 election. Even unintentional examples of voter fraud are miniscule in comparison to the number of votes cast. The best way to ensure a free and fair election is to increase access to the polls. The more people vote, the more confidence we can have that our election upheld the principles of democracy.

Instead, we have a bill that dabbles in the minutiae of procedure with obscure aims. In that spirit we offer the following substantive suggestions.

Improvements to Vote by Mail.

During the floor debate, the Senate made some positive changes to the vote by mail process. These include the opportunity to discover and cure certain defects via the online VBM tracker. However, there are still issues with vote by mail. Specifically:

- The opportunity to cure issues with vote by mail ballots is not mandatory for all counties. Legislators have stated their intent that this bill provide for consistent administration of elections across the state. But under SB 1 as written counties will get to choose whether voters have notice or opportunity to cure problems with signatures, ID numbers, or other issues.
- Counties do not have a proactive method to notify people who applied to vote by mail when there are issues with their ID number—either that it was not included or that it cannot be used to successfully identify them. The online VBM tracker will post voter ID errors online, and voters do have the ability to correct their ID numbers online. But there is no mechanism for the county to notify the voter of the problem in the first place. There is a process to notify voters when the marked ballot itself has an ID number issue, but there is no such process for VBM applications.
- During the Senate floor debate, lawmakers unanimously supported Floor Amendment 6, which gives voters the opportunity to “add or correct” their ID numbers via the online VBM tracker. This was a good amendment and an indication of the value placed on giving voters the ability to remotely cure defects. Unfortunately no such remote option is available when the defect is related to the signature on the VBM ballot. An overwhelming number of mail-in ballots that are subject to rejection are due to issues with the signature. And yet voters have no remote option to cure this issue such as via the online VBM tracker, by email, fax, or phone.



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The Varying Treatment of Election Officers and Poll Watchers.

Generally speaking, the effect of SB 1 is to lard election officers with procedure and penalties while expanding the opportunity for poll watchers to interfere in elections. There are other advocacy organizations, such as the Texas Civil Rights Project, that have gone into more detail about these provisions in SB 1. We will make one comment on their overall effect.

In previous hearings on similar legislation, we have heard testimony from people who say that they do not feel intimidated by poll watchers and cannot imagine why anyone would. This testimony invariably comes from older, white voters.

On the other hand, we have heard testimony from the Dean of the House, Rep. Senfronia Thompson, who shared a specific example in which she was the victim of intimidation by a poll watcher. Rep. Thompson plainly understands election administration as well as nearly anyone in Texas—she has participated as a candidate for fifty years. Her experience shows something that many proponents of this bill cannot see: its effect on minority voters.

Rep. Thompson is not one to shrink in the face of intimidation. But how many voters might? Are we aware of the effect that emboldened poll watchers (and chastened elections officers) will have on them?

The Pandemic as Context for Voter Access.

The 2020 election occurred under unprecedented circumstances—the COVID-19 pandemic. As the pandemic continues with renewed ferocity, we must take extreme care to provide everyone with safe access to the polls. This includes people who are ill, people who are contagious, people who are immunocompromised, and those such as the disabled who face other health-related obstacles to voting. We should also take lessons from the pandemic about how ballot access can be expanded, not restricted.

Drive-through voting proved a safe and popular option for voters in Harris County. A federal judge has already ruled that the 127,000 ballots cast by drive-through voters were valid.² And yet SB 1 has inexplicably banned drive-through voting. Extended voting hours were also a popular option. And though proponents of this legislation claim that it has not restricted voting hours, in fact the law never previously limited voting hours. SB 1 limits voting hours during early voting and bans overnight voting.

Both drive through voting and overnight voting were disproportionately used by minority voters. Targeting these methods disproportionately impacts minority voters. Unintended or not, these are the fact. As to the question of intent, the history of the disenfranchisement of minority voters provides a guide.

² See <https://www.texastribune.org/2020/11/02/texas-drive-thru-votes-harris-county/>.



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Both this context and the measures necessary to conduct elections safely during the pandemic weigh in favor of expanding access to the polls. Furthermore, it is the stated intent of proponents of this legislation that everyone in Texas have an equal opportunity to vote. There are millions of voters in Harris County. Some counties have only a few thousand voters. Equal access will necessarily mean more opportunities to vote in more populous counties—more polling locations, more hours, and more access to methods such as early voting, vote by mail, and drive through voting.

Conclusion: despite a few positive measures, on balance we oppose SB 1.

There are a few things in this legislation we can support. These include:

- Allowing voters to update their voter registration electronically when they move counties.
- Recent amendments to provide for notice and opportunity to cure defects in vote by mail ballots.
- Explicitly extending to early voting the Election Day rule that voters who are in line at closing time can vote

Still, the overwhelming impact of this bill will be to suppress votes. That effect will disproportionately fall on poor and minority voters who have been the target of disenfranchisement for generations.

For these reasons we oppose SB 1 and urge you not to pass it.

Thank you for the opportunity to provide this testimony, if you wish to discuss our position further, I can be reached by email at ashelley@citizen.org or by phone at 512-477-1155.

Respectfully,

Adrian Shelley
Texas Office Director

CC: Rep. Senfronia Thompson, Rep. John H. Bucy III, Rep. Travis Clardy, Rep. Charlie Geren, Rep. Jacey Jetton, Rep. Ann Johnson, Rep. Stephanie Klick, Rep. Brooks Landgraf, Rep. Oscar Longoria, Rep. J. M. Lozano, Rep. Joe Moody, Rep. Victoria Neave, Rep. Matt Shaheen, Rep. James White



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**Constitutional Rights & Remedies, Select Committee
Regarding SB1
August 23, 2021**

Testimony by Alex Cogan, LMSW, Manager of Public Policy and Advocacy, The Arc of Texas

Thank you for the opportunity to provide input on SB1, a bill The Arc of Texas opposes, as it puts voting rights for people with disabilities in jeopardy. My name is Alex Cogan, and I am Manager of Public Policy and Advocacy for The Arc of Texas. The Arc of Texas promotes, protects, and advocates for the human rights and self-determination of Texans with intellectual and developmental disabilities (IDD), and this includes ensuring Texans with disabilities can vote privately and independently with proper access, accommodations, and support.

There are multiple provisions in SB1 that specifically interfere with the ability of Texans with disabilities to participate in the democratic process, a direct counter to the election integrity and security bill that authors claim is the purpose of the legislation. Access to the electoral process for all eligible Texas voters, which includes people with IDD, is something every Texan, and specifically every elected legislator, should seek. We know that public confidence in our democratic system requires that *all* eligible voters can participate in the process and have their vote counted. But that public confidence is waning when bills like SB1 are fast-tracked through the process with little to no opportunity for the public, and most importantly people with disabilities, to provide virtual comments.

The Arc of Texas opposes the below provisions in SB1 because they infringe on the civil rights of Texans with disabilities and their ability to vote. The added requirements and enhanced penalties to people with disabilities and the supporters they select to assist them fundamentally discourages the participation of those with disabilities to vote with accommodations and supports. This is not only immoral, but it is also illegal.

- **Section 4.11, Inhibits Texans without a consistent signature from voting**

This section penalizes individuals with neurological disabilities. Allowing a signature verification committee to use any known signature as comparison for a voter by mail does not consider the reality of some Texans with disabilities, whose signature can change due to their disability. For example, people with cerebral palsy, visual impairments, and/or other disabilities frequently do not sign their name consistently because it is physically an impossible request to fulfill.

- **Section 4.01, Limits the use of signature accommodations**

This section requires a signature to be "ink on paper," which does not allow Texans with disabilities to utilize a reasonable accommodation through the Americans with Disabilities Act. Again, this provision does not consider the reality of voters with disabilities' actual support needs. For example, some individuals may not have the ability to hold a pen or the dexterity to traditionally sign so they may require the use of a signature stamp.

- **Sections 5.03 and 5.04, Adds unnecessary and excessive requirements for individuals who assist voters with disabilities**

These sections require people who assist voters with a disability to complete a form affirming that they "did not encourage [...] the voter into choosing" the assistant. It is not uncommon for a friend or colleague



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to remind someone that an election is approaching and encourage civic participation and/or remind the individual that they are allowed to have an assistant, if needed, by law. In the case of people with disabilities who require assistance, the individual who is providing assistance may also be the individual who encouraged participation. We can all agree that the democratic process only works when those eligible to vote are able to participate.

These changes in oath complicate the voting process and lead to unnecessary confusion and the potential inability of Texans with disabilities to participate in the democratic process. People with support needs deserve the federal accommodation to exercise their civil right, but the added requirements foster a false narrative that those who volunteer to help their fellow voters are to be suspected of fraud instead of celebrated for creating a more representative democracy.

- **Section 5.05, Increases penalties for assisting voters**

This section requires an assistant of a person voting by mail to fill out a new form with additional information about themselves and their assistance and will make any mistake in filling out the new form a state jail felony (unless the assistant is related to the voter).

These new provisions will create a chilling effect that decreases the needed support for Texans with disabilities to vote.

The above provisions do not consider the lived experiences of people with disabilities and the reasons voting accommodations exist. We urge the committee to recognize that all Texans have the right to vote as privately and independently as possible. People with disabilities already face barriers and discrimination daily, from public school inclusion to securing employment. We must not add voting to that list. As American citizens and Texans, voting is our fundamental right and must be maintained, but SB1 falls short in maintaining our existing election integrity and security. At best, SB1 creates significant barriers to the voting process and at worst, it is discriminatory against Texans with disabilities.

Please note that this testimony is a stand-in for representation of people with disabilities. The Fourth wave of Covid-19 in Central Texas created barriers for many to speak on their behalf. We can all agree that people with disabilities should be included in developing policy that directly impacts them; they deserve a seat at the table to share their powerful stories. SB1 has failed to do that. So, on behalf of 3 million Texans with disabilities, we urge the committee to consider the detrimental impact this bill will have on maintaining a system of democracy.

Thank you for the opportunity to provide these comments on behalf of The Arc of Texas. We are open to continuing to work with the author to ensure Texans with disabilities maintain their civil right to vote.

Alex Cogan, LMSW
acogan@thearcoftexas.org
(512) 485-9737

The following news articles (pages 17-50 of this document) are included as meeting handouts pursuant to Rep. Lozano's request during the committee's public hearing on SB 1.



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In Rio Grande Valley, Some Campaign Workers Are Paid To Harvest Votes

July 7, 2015 · 5:00 AM ET
Heard on Morning Edition

7/7/15



JOHN BURNETT



MARISA PEÑALOZA

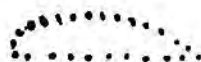
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Herminia Becerra is a *politiquera* in Brownsville, Texas. She has worked political campaigns for nearly 60 years in the Rio Grande Valley. Becerra says she has never been indicted for election fraud, has nothing to hide, and supports candidates without compensation.

John Burnett/NPR



This week, NPR examines public corruption in South Texas. The FBI has launched a task force to clean up entrenched wrongdoing by public servants in the Rio Grande Valley. In the final part of this series, we examine vote-stealing and election fraud.

A new FBI anti-corruption task force is trying to clean up the Rio Grande Valley of Texas. According to the Justice Department, in 2013, more public officials were

convicted for corruption in South Texas than in any other region of the country. One of the practices the task force is looking at is vote-stealing.

They're called *politiqueras* — a word unique to the border that means campaign worker. It's a time-honored tradition down in the land of grapefruit orchards and Border Patrol checkpoints. If a local candidate needs dependable votes, he or she goes to a *politiquera*.

In recent years, losing candidates in local elections began to challenge vote harvesting by *politiqueras* in the Rio Grande Valley, and they shared their investigations with authorities. After the 2012 election cycle, the Justice Department and the Texas attorney general's office filed charges.

Article continues after sponsor message

Corruption in the Valley: Dirty Cash, Drugs And Vote Buying



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Grande Valley

"Yes, there is a concern in which the *politiqueras* are being paid to then go and essentially round up voters and have them vote a certain way," says James Sturgis, assistant U.S. attorney in McAllen.

In the town of Donna, five *politiqueras* pleaded guilty to election fraud. Voters were bribed with cigarettes, beer or dime bags of cocaine. In neighboring Cameron County, nine *politiqueras* were charged with manipulating mail-in ballots.

The self-anointed queen of *politiqueras* in Cameron County is 86-year-old Herminia Becerra. She says she's been working in campaigns for nearly 60 years.

Becerra has short, white hair and quick, flashing eyes. She throws back her head and belts out an original campaign song in a husky voice: "*Y ganamos y ganamos, con Cesar de Leon. Y votamos y votamos, por Cesar de Leon. Para comisionado de ciudad de Brownsville.*"

"We win with Cesar de Leon. We vote for Cesar de Leon, for city commissioner of Brownsville," the song goes.

Becerra is one of few *politiqueras* in the Valley willing to interview with a reporter. She says she has never been indicted for election fraud and has nothing to hide. She says

all she does is talk to voters, hold political signs and shout into a bullhorn.

If a candidate needed 200 votes — which in these small precincts can win a race — could she help?

"Oh, yes. I know it can be done because I've done it," she says without hesitation. "I know lots of people, and people know me. If I do a favor for you, you're grateful and your whole family is grateful. And you're going to tell your whole family, 'Help Herminia.' "

Hustling votes has a rich political history in America. Chicagoans have been known to vote from beyond the grave. Democratic machines from New Orleans to New York City have hauled voters to the polls. In the Valley, it's all about mail-in ballots. A *politiquera* has a friendly relationship with a group of elderly voters, who are eligible to use mail-in ballots. They may be nursing home residents, neighbors or clients at activity centers for seniors.

A grass-roots organization called Citizens Against Voter Abuse (CAVA) organized after the 2010 elections conducted hundreds of interviews with elderly Mexican-American women who CAVA believes had their mail-in ballots manipulated. The founder, Mary Helen Flores, gives a typical story.

"[The voter] has been cultivated by this particular *politiquera* who works that building to give up her vote every election," Flores says. "And the [*politiquera*] will, under the guise of helping her, will come and take her ballot from her and say: 'Well, I'm going to go mail it for you.' "

In the Cameron County indictments, *politiqueras* are alleged to have charged local political candidates \$10 to \$20 for every mail-in ballot they delivered. Under Texas election law, an elderly or disabled voter can use a helper, but that person — the *politiquera* — cannot collect the voter's ballot and then fill it out and mail it later.

Mary Helen Flores (center) is the founder of Citizens Against Voter Abuse.

John Burnett/NPR

Longtime Valley political strategist Mike Carrera says he's glad that prosecutors are weeding out unscrupulous *politiqueras*. But that doesn't mean they're all bad. Carrera says the ones he hires are paid to know their precinct's voting habits, nothing more.

"In every profession, you have extremists. Ninety-five percent of the *politiqueras* who operate in Hidalgo County don't operate like that, paying for votes," he says.

A former campaign manager in Brownsville agreed to talk if his name was withheld, because *politiqueras* are under criminal investigation. He said a few years ago the campaign he was running paid \$3,000 a week for 15 *politiqueras* to work the mail-in ballots in a local race. He said the campaign did not ask them to break the law, just deliver votes. And he states flatly that Herminia Becerra was one of the *politiqueras* they hired, a claim she vehemently denies.

"Don't ask me if people pay me to get them votes," Becerra says, her voice rising. "Ask God! He'd say, 'No, Herminia didn't get paid. She helps the people.' I'm only interested in helping the poor because I come from poverty."

CAVA founder Mary Helen Flores says it's important to clean up Valley elections because residents need honest leaders to address the rates of high poverty and low educational achievement in the region, not office-holders who feather their nests.

"In Brownsville, some of these candidates do hire *politiqueras*, get in office and immediately begin to get their friends jobs, get contracts to their friends and family members," Flores says. "We don't have any enforcement of conflict-of-interest laws here."

The indictments of *politiqueras* in the Rio Grande Valley may be having an effect. In the Democratic primaries in Cameron County for three justice of the peace offices, between elections in 2012 and 2014, the number of mail-in ballots dropped 97 percent.

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NEWS

4/21/17

Reports of voter fraud in West Dallas have 'deeply troubled' Mike Rawlings, Rep. Eric Johnson

In a letter to Dallas County's elections administrator, the mayor and state legislator asked her to "take whatever steps necessary to restore voter confidence in West Dallas."



Dallas Mayor Mike Rawlings answers questions from high school students participating in "Storytellers Without Borders" program conducted by The Dallas Morning News and the Dallas Public Library at the J. Erik Jonsson Central Library on Wednesday, March 29, 2017, in Dallas. (Smiley N. Pool/The Dallas Morning News) (Staff Photographer)



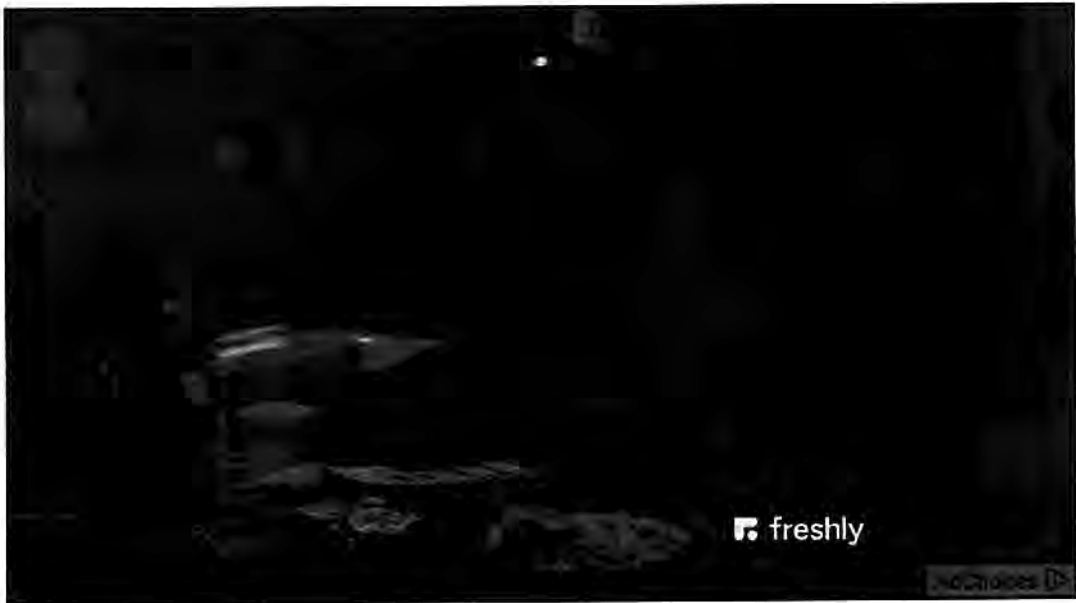
By Tristan Hallman
8:17 AM on Apr 21, 2017



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troubled" by reports of potential voter fraud in West Dallas.

Some West Dallas residents have said they received mail-in ballots they didn't request, raising the possibility that someone else might be trying to cast their ballots for them.



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Rawlings and Johnson sent a letter late Thursday to Dallas County Elections Administrator Toni Pippins-Poole, asking her to "take whatever steps necessary to restore voter confidence in West Dallas."

At a news conference Friday, Rawlings said Pippins-Poole has added staff to review mail-in ballots. The county will also allow voters to cast provisional ballots at the polls if they discover a ballot had already been cast for them by mail, Rawlings said.

Pippins-Poole said in a statement that the county's elections department "has met with the proper authorities, and they are assisting with the investigation."

"I will make sure everybody's actual vote counts," she said. "Fraudulent ballots will be identified, and the perpetrators prosecuted."



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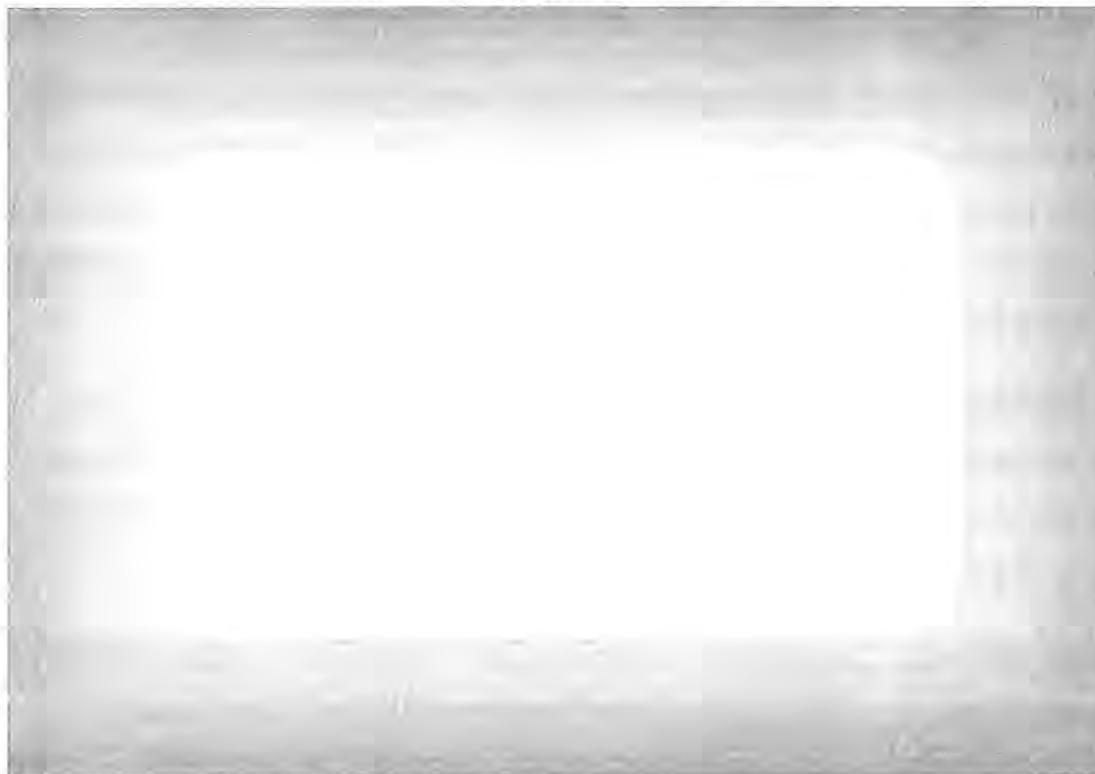


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If a voter fits one of those descriptions, he or she can submit an application and receive a ballot. The application requires the signature of the voter, as well as the signature and home address of anyone who might have helped secure that paperwork. The county also does not require a formal application as long as the request is in writing.

The process leaves opportunities for manipulation, such as people impersonating others or obtaining a vulnerable voter's signature under false pretenses.

Rawlings and Johnson, a Dallas Democrat, said they had been startled by the recent reports of possible fraud. The allegations followed reports that some voters showed up in November to find that votes had already been cast in their name by mail-in ballot.

Johnson, who was raised in West Dallas and Oak Cliff by his grandparents, said he worries people are using elderly voters to try to steal votes. He said he considered "any kind of taking advantage of the elderly to be a form of elder abuse."

Johnson said the fears of voter fraud are nothing new: he has long heard rumors about vote-stealing in West Dallas and other parts of the city.

"I've had enough," Johnson said. "At this point, I'd like to see something done about it."



The Dallas Morning News

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voters living in a West Dallas housing project into handing over blank, unsigned absentee ballots. A precinct chair echoed that allegations, which Garcia denied.

That April, *The Dallas Morning News* interviewed 32 mail-in absentee voters in that race. Several said they were simply doing what had always been done: getting campaign workers to register them to vote, pick up and mail their ballots and even mark their ballots if they were unable to read them. *The News* referred to it as a "time-honored practice."

In 2001, in one City Council race, Maxine Thornton-Reese defeated Larry Duncan by only 16 votes. Duncan contended that 21 mail-in ballots had been improperly submitted; a state district judge concurred and voided the results of the election. Thornton-Reese eventually won the council seat.

Two years after that, in yet another Dallas City Council race, eight voters told *The News* they didn't sign the applications then-council candidate Clair C.

Woertendyke sent to the council elections department. Woertendyke's excuse was that voters' relatives might have requested the mail-in ballots — or, perhaps, they were simply too old to remember they'd asked for one.

At the time, Bruce Sherbet was running the Dallas County Elections office, and he submitted each case to the Dallas County district attorney's office. But, he said Friday, he couldn't recall anyone ever being prosecuted.

"Over the years, this has been a very, very difficult area to determine if the law has been broken, because it requires witnesses and being able to bring solid evidence forward," said Sherbet, who's now the elections administrator in Collin County. "If someone says, 'I didn't sign this, someone fraudulently signed this,' finding the perpetrator has proven very difficult over the years. It's a very challenging area."

Rawlings hopes the district attorney will sort out the problems this time.

"There has been a lot of smoke on this issue for a long time," Rawlings said. "I just want to ask the DA, Dallas County, is there any fire. And if so, hopefully it's a small fire, and we'll put it out and we'll move on."

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The May 6 election will feature a hotly contested City Council race in West Dallas among Mayor Pro Tem Monica Alonzo, Dallas County Schools board member Omar Narvaez, Alex Dickey, Linus Spiller, Tony Carrillo and former Dallas police Sgt. Gil Cerda.

Alonzo and Narvaez, who lead the race in fundraising, both said the idea that the idea of people preying upon the elderly was unacceptable.

"It's wrong. It's so wrong," Alonzo said. "And it's unfair."


Narvaez said he doesn't know what is going on and hopes the potential voter fraud "is a very limited thing."

"As a candidate it is disappointing to know that this happens," he said. "Not only are we facing odds against an incumbent — but there are parties that are messing, that are playing with our democracy."

Staff writers Robert Wilonsky and Naomi Martin contributed to this report.

4-20-17 -- Rawlings, Johnson Re Mail Ballots by [Tristan Hallman](#) on Scribd

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MICHAEL S. RAWLINGS
Mayor of Dallas



April 20, 2017

Delivered via email: Toni.Pippins-Poole@dallascounty.org

Dear Ms. Pippins-Poole:

We respectfully request that the Dallas County Elections Commission take the necessary steps necessary to restore voter confidence in West Dallas. We are concerned by the media reports of possible voter fraud in this area of the county. We are also concerned that some of our voters received mail-in ballots they never requested. We are concerned that this is a coordinated effort to benefit a candidate or candidates in the upcoming Council elections.

1 of 1





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DALLAS COUNTY ELECTIONS DEPARTMENT

From: Dallas County Elections Department
Toni Pippins-Poole, Elections Administrator

FOR IMMEDIATE RELEASE: TUESDAY

DALLAS COUNTY ELECTIONS DEPARTMENT'S CONCERNS REGARDING BALLOTS

PLEASE DISPERSE AS MANY TIMES AS POSSIBLE

The Dallas County Elections Department (DCED) has informed elected officials and citizens regarding Voters receiving ballots that had not requested these ballots. "We take these allegations very seriously and the integrity of the voting process is our utmost concern. This matter has been referred to the District Attorney's Office. The Department is working fully with the District Attorney's office and due to the ongoing investigation we are not able to comment any further at this time.

WHAT THE ELECTIONS DEPARTMENT IS DOING:

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Eric Johnson

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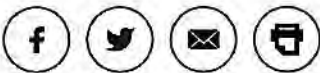
4/26/17

Texas needs tougher laws to reel in mail-in vote fraud

Texas needs tougher laws needed to curb abuse of mail-in ballot programs.




Volunteer Roman Gonzalez paces among an array of political signs covering the parking area outside the Dallas County Government Center, a voting location in Oak Cliff, Tuesday, May 27, 2014. (Tom Fox/The Dallas Morning News) election voting



By Gromer Jeffers Jr.
10:47 AM on Apr 26, 2017

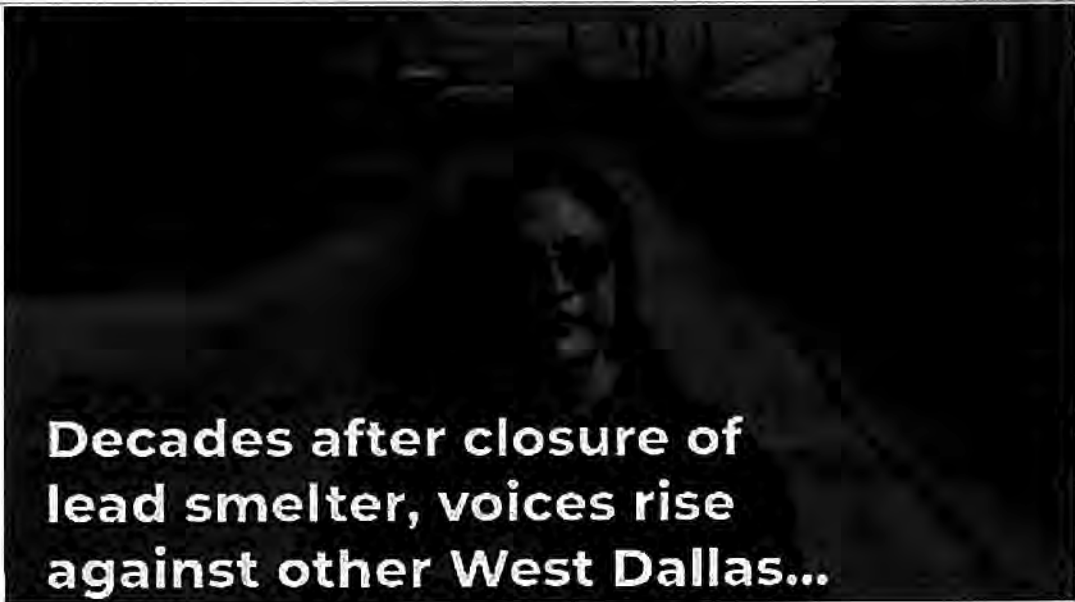


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Let's face it. Mail-in ballot voting, a necessary and noble process, is vulnerable to fraud.



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"We ask that you devote additional resources to verify the integrity of each mail-in ballot in Dallas," Mayor Mike Rawlings and state Rep. Eric Johnson said in a joint letter to the Dallas County Elections Department. "We look forward to hearing from you soon regarding your plan."

A plan is what's needed to root out possible crimes, as well as encourage more voter participation. Lawmakers, elections experts and law enforcement officials, as they did 14 years ago, should develop new policies to stamp out corruption, even if it costs money and resources.

Voter fraud, even with mail-in ballots, does not occur on a large scale. But in low-turnout elections, stealing just a few votes can be the difference between winning and losing.



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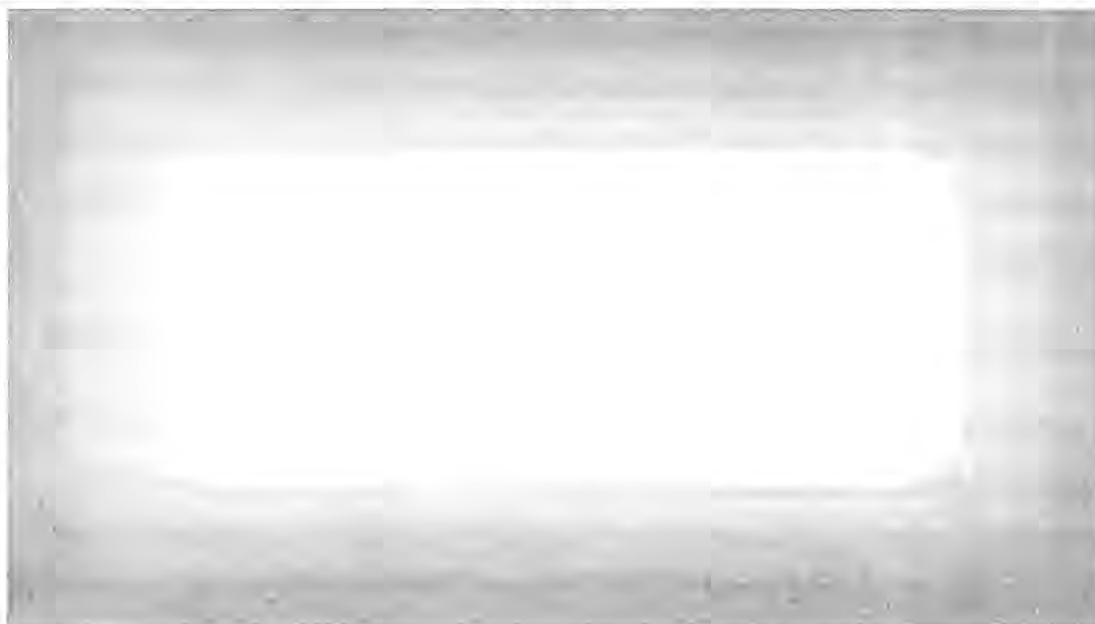
French Press

BY LE CREUSET

"You have to have a conversation in order to prevent coercion and fraud," said former state Rep. Steve Wolens, who in 2003 sponsored legislation to overhaul the state's mail-in ballot system. "Then you tailor-make a new law that deals with abuse and opens up voting."



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He infuriated some members of his party by working with then-Elections Commissioner Bruce Sherbet, Dallas County prosecutor Ben Stool and others to develop a law to curb mail-in ballot abuse.

The law defined how a voter could receive a mail-in ballot application, set regulations for operatives helping voters and created penalties for offenders. The law also devised ways to track mail-in vote operatives, called "*politiqueros*," in Hispanic neighborhoods where absentee campaigns are aggressive. Agents now have to sign for mail-in ballot applications and when they assist voters.

"It put regulations in place where there were none," said Sherbet, now Collin County's elections administrator.

The 2003 law was an excellent first step, but more action is needed to weed out the shysters and protect the electoral process.

As Sherbet points out, the law forbids an agent from tampering with or improperly marking someone's absentee ballot. But most of the charges associated with violating the 2003 law are misdemeanors. Law enforcement officials have told lawmakers that they are unlikely to invest critical time and resources to chase mail-in vote abusers when they will essentially get off with a stern look and the shake of a head.

Former state Sen. Florence Shapiro, R-Plano, tried to assist Wolens' effort from her perch in the Senate. She offered companion legislation that would have made felony penalties for an array of mail-in voter fraud. But the bill died in committee. Shapiro knew then that the law needed to be tougher in order to deter criminal activity.



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There are other ways to strengthen mail-in ballot regulations. They include the Dallas County model of putting return postage with mailed ballots to encourage the actual voter to send it back. There's also a need for a standardized ballot application and regulation of those assisting voters, much like a person who registers new voters.

More early voting locations and mobile election centers could help as well.

What's perplexing about mail-in ballot fraud is that it's so unnecessary. Absentee ballot laws are so liberal that they are hard to break, and they encourage aggressive campaigning. An operative can legally help a person get a ballot, drop that ballot in the mail and even tell the person how to vote, as long as it's not while that person is marking the ballot.

It's like giving a voter a ride to the polls and a barbecue sandwich. Just before the voter gets out the van, you remind them how to vote.

It's not illegal. It's politics.

"You don't have to break the law to be effective," Sherbet said.

The biggest problem in local elections is not fraud, but low voter turnout.

Along with protecting the integrity of the absentee vote, lawmakers should consider expanding voter options by allowing everyone the chance to vote by mail.

Oregon, Washington and Colorado have successful mail-in ballot election systems that have boosted overall turnout and not been smeared by fraud. If the goal is higher participation, that system is worth a look in Texas, as well as allowing a person to register and vote on the same day.

As states with progressive election policies have shown, the more people participating in an electoral contest, the less the impact of fraud.

Even with the potential problems in West Dallas, mail-in ballot fraud doesn't reflect the mindset of most of the participants. After making sure our election laws are adequate, all that's left is trust.

"We can control polling places," Sherbet said. "But when a ballot goes in the mail, you don't know for sure what will happen to it."



Granger Jeffers Jr. political writer, The Howard University graduate and Chicago

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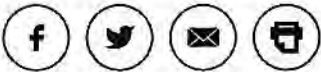
5/4/17

'I feel violated': Senior citizens rattled by voter fraud in West Dallas, Grand Prairie

More than 100 voters of retirement age have filed fraud complaints in recent weeks, the largest number Dallas County has ever received.



Pat Stephens, 67, poses for a portrait in her home on Thursday, April 27, 2017 in Dallas, Texas. She is among dozens of potential victims of voter fraud this election cycle in West Dallas and Grand Prairie. A suspicious man came to her door claiming to work for Dallas County and asking for her mail-in ballot. She instead demanded to see his driver's license and she took a photo of it. (David Woo/The Dallas Morning News) (David Woo / Staff Photographer)

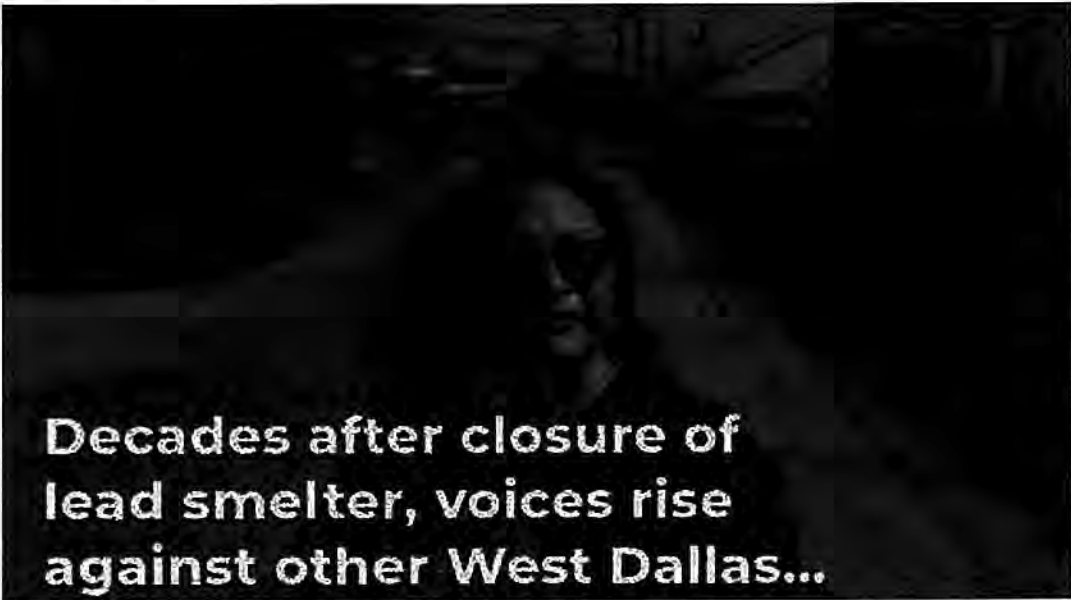


By Naomi Martin

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— and potentially a criminal one, too.

In the past few weeks, dozens of ballots in bright green envelopes showed up at homes in West Dallas and Grand Prairie. The residents — all of retirement age — were confused. They hadn't requested mail-in ballots for the May 6 municipal elections, but yet, here they were.



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after
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When those same voters called the Dallas County Elections Department, one by one, many were told the same thing: Your signature appears on the mail-in ballot application. And a guy named Jose Rodriguez signed it, too, saying he helped you.

Only people who are 65 and older or disabled are eligible to request annual ballots to vote by mail. It's not illegal for campaigns to help someone fill out an application to vote by mail, though it is illegal to try to influence the person's vote.

But the residents in these cases say their signatures on those ballot applications were forged.

"I don't know a Jose Rodriguez," said Mary Milam, 67, who lives in West Dallas. "I'm angry. How are you just going to forge my name? That's wrong."



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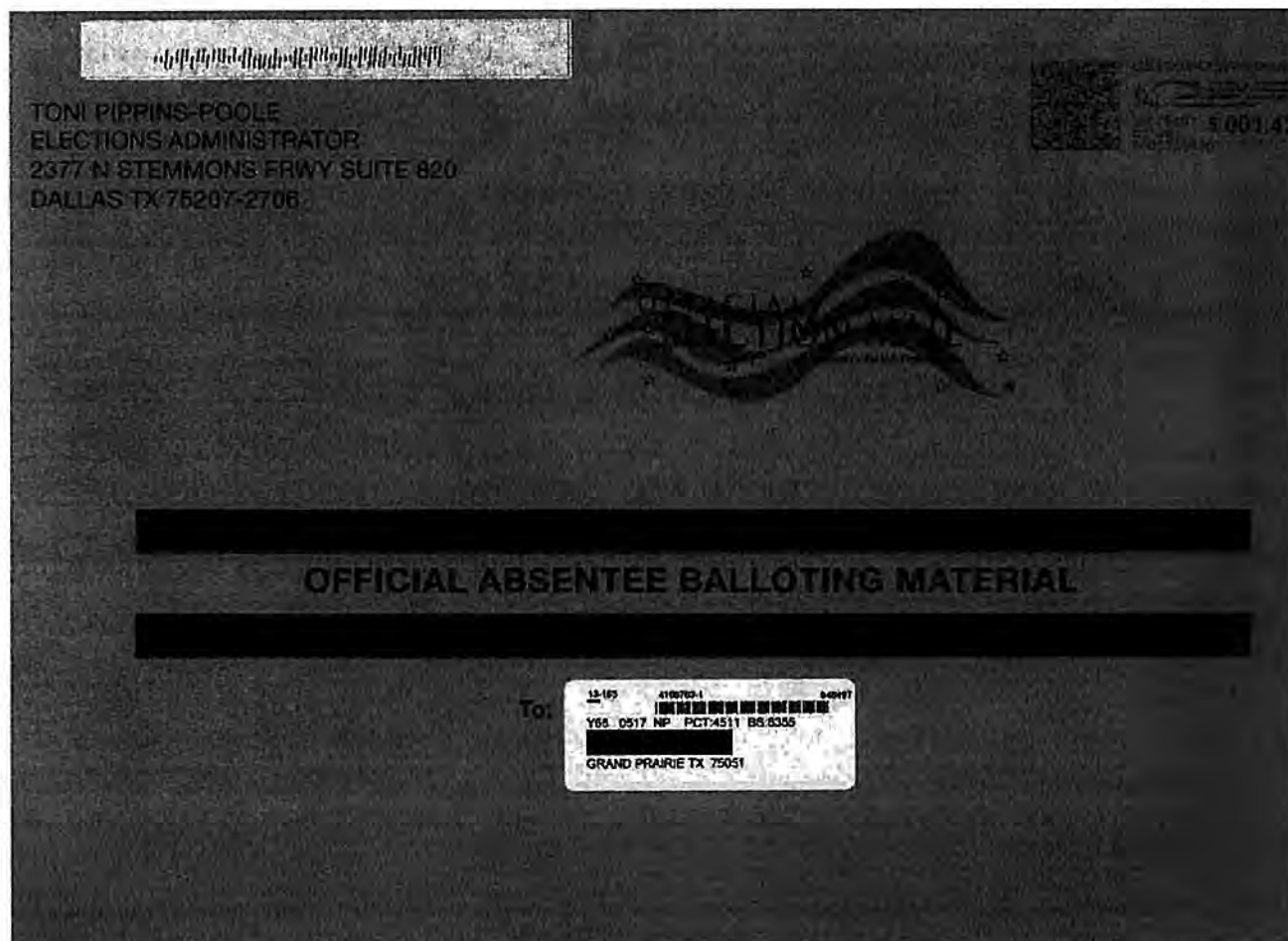


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have reported complaints to the county in recent weeks. It's the largest number of fraud complaints the county has ever received, said Elections Administrator Toni Pippins-Poole.



This is a mail-in ballot envelope received by a Grand Prairie voter in recent weeks that the resident did not request. (Courtesy)

The residents fear someone could tamper with their votes, either by taking their ballots off their doorstep or pulling them from their mailboxes. They also fear they won't be able to vote at the polls now.

In early April, a man started **knocking on doors** in West Dallas and Grand Prairie, saying he was collecting the mail-in ballots. The county does not collect ballots and warns residents not to give theirs to anyone they don't know.

One afternoon, Carrie Chatman, 72, answered a knock at her front door in West Dallas, where a contentious race for Dallas City Council's District 6 is unfolding. At the time, she had already received a ballot in the mail, which she hadn't ordered. She'd learned from her neighbors that something fishy was going on.

That day, a stocky Hispanic man, around 5 foot 7, stood on her porch, holding a green ballot envelope in one hand, and a list of typed names in the other. The senior citizens' names on the list were highlighted.



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agitated. He told Chatman that he had worked to get City Council member Monica Alonzo elected in past years, but now he was working to help her opponent, Omar Narvaez.

"He kept going on about how Alonzo did not do her job," Chatman said. "He was saying Omar was who I should be voting for."

Chatman refused to hand over her ballot. Eventually, the man got in his car — a small, older-model red sedan — and drove away. Chatman tried to glimpse the license plate, but it was a temporary tag, and the letters were too small.

"That's so ugly, to try to take advantage of the seniors," Chatman said. "It's really deplorable that you're going to steal my vote. That's precious — that's my right to vote."

Around the corner from Chatman's home, Pat Stephens, 67, answered a knock at her door around 6 p.m. on April 8. A man — whom she described as Latino, about 5 feet 7 inches tall and driving a small red car — told her he was there to pick up her ballot.

"I didn't request no mail-in ballot," she recalled telling him. "Who are you with?"



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1/2 Pat Stephens, 67, is among dozens of potential victims of voter fraud this election cycle in West Dallas as a man came to her door claiming to work for Dallas County and asking for her mail-in ballot. She instead demanded his driver's license, and she took a photo of it. (David Woo / Staff Photographer)

The man said he worked for Dallas County and showed her a typed list in his hand with her and her husband's names highlighted. "I have your names right here," he said.

"Where's your ID?" she asked.

Why? he said.

"I just want to make sure you are who you say you are," she told him.

The man handed over his driver's license. Stephens took a photo of the license on her cellphone. The photo showed the man's portrait, name, address and that he was 27 years old, 5 foot 7.

The man left, and Stephens called her neighbor Debra Moore. "We need to report this because this is something fraudulent," Stephens recalled telling her.

"I feel violated," Stephens said.



Moore, who is active in the Westmoreland Heights neighborhood group, was worried. Then the next day, a 66-year-old neighbor called Moore in tears, saying a man had just shown up at her home and was persistent in trying to get her mail-in ballot, which she hadn't ordered. He was also driving a little red car.

Moore called the police.

An officer arrived and spotted a vehicle that matched the suspect vehicle. But when he confronted the two men inside, their appearances didn't match the complainant's description, said Sgt. Warren Mitchell, a police spokesman. Because of that discrepancy, and the fact that the officer saw no evidence that a crime had occurred, he found no reason to detain the man, Mitchell said.

The incident was reported to the county elections department, which turned over all its evidence to criminal investigators with the Dallas County district attorney's office.

So far, no one's been arrested.

No one answered the door last week at the address listed for the man on his driver's license, or at another address listed for him in public records.



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Gloria Annette Perkins and her husband, Steve, both 70, received mail-in ballots they hadn't requested at their home in Grand Prairie. She called the elections department and found out that "Jose Rodriguez" was noted as having helped her apply for her mail ballot.



Gloria Annette Perkins and her husband, Steve, both 70, received mail-in ballots that they hadn't requested at their home in Grand Prairie. (David Woo / Staff Photographer)

"It angers you that somebody's arbitrarily picking your name out and using it," she said. "Nobody likes to be taken advantage of."

In municipal races, voter turnout is notoriously low without a big national election to draw crowds to the polls. As a result, council members are elected with tiny margins; sometimes 10 votes can mean the difference between victory and loss.

"The problem with absentee or mail-in ballot fraud is that it works," Tim Dickey, the father of District 6 candidate Alex Dickey, told the Dallas County Commissioners Court this week. "The people that are best at it end up sitting in the seats and being in a position to do, or not do, something about it."

As of Wednesday, 622 people have voted by mail and 807 have voted in person in West Dallas' District 6 race, county data shows. That means mail-in ballots make up 44 percent of all the votes cast so far, a higher share than any other Dallas City Council race.

A whopping 448 mail-in ballots were requested in District 6 on a single day—March 14, records show.

Both Dickey and Linus Spiller, another candidate in District 6, told the county commissioners that they hoped the authorities would take the issue seriously.



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mail-in ballot requests for authenticity.

"I will make sure that everyone's actual vote counts," Pippins-Poole said.
"Fraudulent ballots will be identified, and the perpetrators prosecuted."

Candidate Narvaez voiced concern about the apparent fraud.

"I hope nothing's going on that's fraudulent, because we don't play like that,"
Narvaez said.

Narvaez provided *The Dallas Morning News* with the names of six senior citizens who he said had told his campaign about suspicious ballot activity by Alonzo. Five of those voters denied the allegations to *The News*. One initially said he and his wife received two ballots each, but then he changed his story.

Alonzo, the council member, said she is concerned about voter fraud and is sure that it was committed by "one of our opponents' people."

The fraudulent activity could undermine the public's trust in the election's outcome.

"You say so-and-so won, but did he do it legally?" said Milam, of West Dallas.
"Did he do it fair and square, or did he manipulate the system?"

Correction: An earlier version of this story incorrectly described who is eligible to vote by mail. To be eligible to vote by mail in Texas, you must be 65 years or older; be disabled; be out of the county on election day and during the period for early voting by personal appearance; or be confined in jail, but otherwise eligible.



Naomi Martin. Naomi is an enterprise/ investigative reporter who has covered Dallas County government, Parkland Memorial Hospital, juvenile detention and the county jail. Before that, Naomi was a criminal justice reporter in Dallas, New Orleans and Baton Rouge. She received The Dallas Morning News' Reporter of the Year award in 2016 and 2017. She has a degree in political economy from Tulane University.

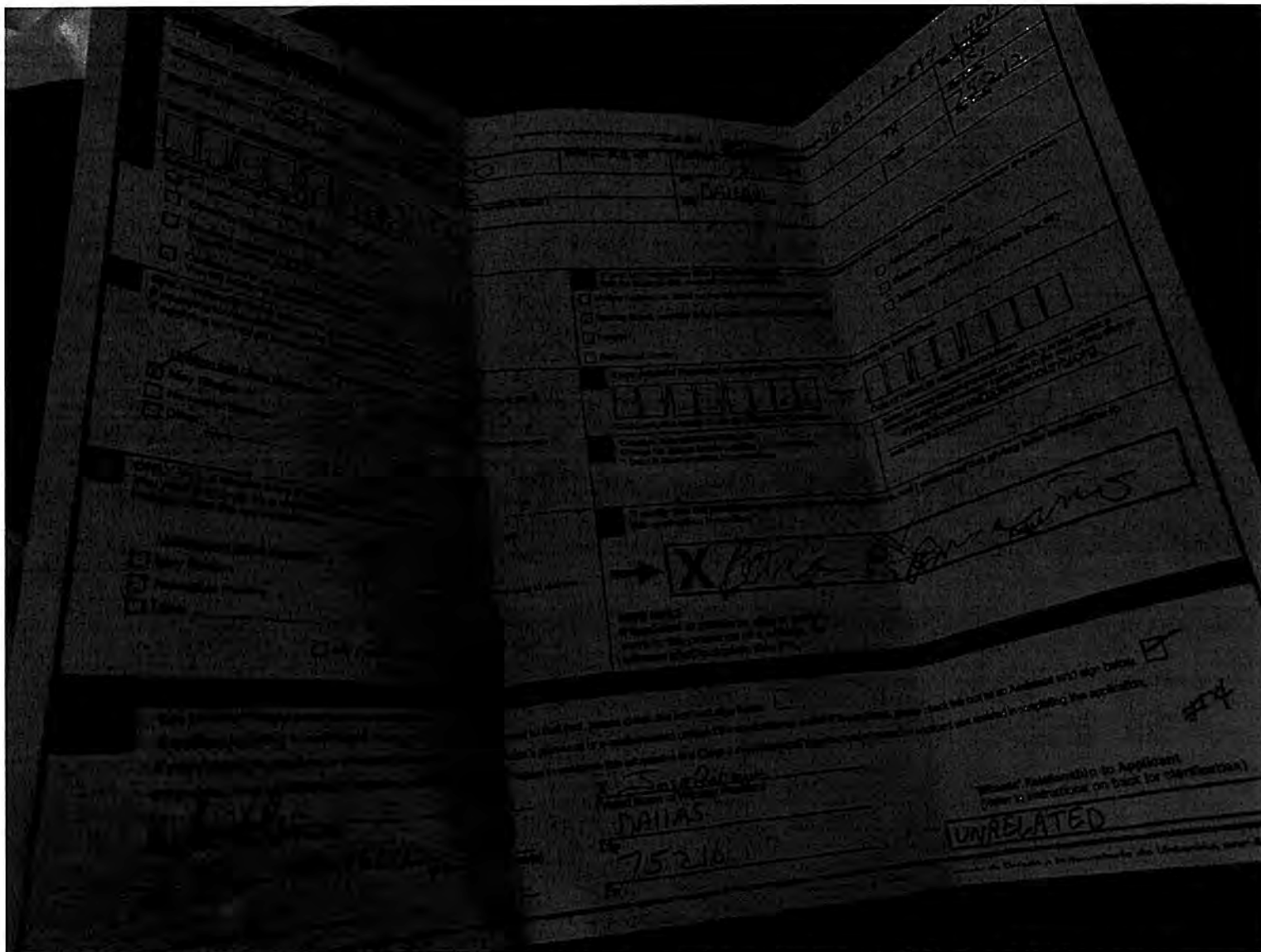
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6/21/18

| **CRIME** |


Dallas Man Pleads Guilty in 2017 West Dallas Voter Fraud Investigation

STEPHEN YOUNG | JUNE 21, 2018 | 4:00AM




Investigators believe Miguel Hernandez is responsible for at least one of the tainted ballots turned in to to the Dallas County Elections Department. **Stephen Young**

As of Wednesday afternoon, Dallas County District Attorney Faith Johnson and Texas Attorney General Ken Paxton have racked up exactly one conviction in their quest to root out voter fraud in Dallas County. Miguel Hernandez, 28, and  Meals for 100 people.

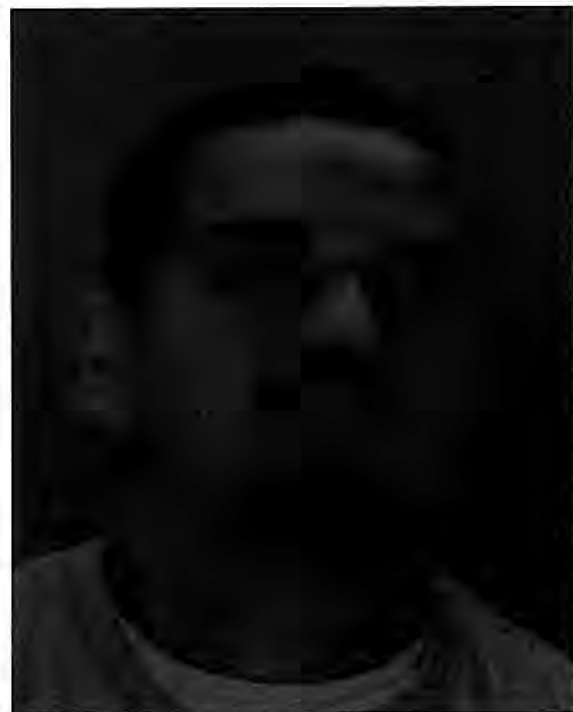
"We must protect the process so that all citizens may have confidence

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"This is the first of many milestones in the ongoing investigation into voter fraud in Dallas County," Johnson says. "We must protect the process so that all citizens may have confidence in the system."

A Dallas County grand jury indicted Hernandez last spring as part of an investigation into potential voter fraud in Dallas' May 2017 municipal election. Investigators in the case believed Hernandez was responsible for at least one tainted ballot turned in to the Dallas County Elections Department during the District 6 City Council election between Omar Narvaez and Monica Alonzo. The ballot was signed "Jose Rodriguez," the alias attached to more than 700 ballots sequestered by a Dallas County judge in the days after the May 6 election.

According to an arrest warrant affidavit, prosecutors got in touch with one of the voters for whom one of the dubious ballots was cast. The woman, who is not named in the affidavit, told investigators that she placed a blank ballot in a white envelope and the official carrier envelop and gave it to someone she believed was going to mail it back to the Dallas County Elections Department. She did not sign the back of the envelope, as is required.



Miguel Hernandez Dallas County

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When the ballot showed up at elections headquarters, both the voter's signature and the "assisted by" line on the form had been filled out. The woman identified Hernandez from a lineup as the person to whom she'd given the ballot.

Hernandez's sentence is far lighter than those given out to two Tarrant County women charged with illegal voting in 2017 and 2018. In February 2017, a Tarrant County jury sentenced Rose Maria Ortega, a permanent U.S. resident, to eight years in prison for voting in several elections without being a U.S. citizen. In April, Crystal Mason, out on parole from federal prison on tax charges, got five years from state District Judge Ruben Gonzalez for casting a provisional ballot during the 2016 presidential election. Despite the disparity in the sentences, Johnson says she believes Hernandez's conviction will deter future voter fraud.

"It is my hope, with this conviction, that we will send a message to anyone who dares to threaten the integrity of the voting process. We will not tolerate it, and you will be brought to justice," Johnson says.

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Convicted of Bribing City Council Members, Developer Ruel Hamilton Wants a Retrial

[JACOB VAUGHN](#) | **AUGUST 23, 2021** | **4:00AM**

After his conviction in June, Dallas developer Ruel Hamilton maintains his innocence. **Getty Images**



Ruel Hamilton, the developer who was convicted in June on charges he bribed ⊗ two former Dallas City Council members, wants the charges against him dropped.

In court filings last week, he and his attorney, Abbe David Lowell, argue the court made several mistaken evidentiary rulings that unfairly influenced the outcome of the trial.

Hamilton and Lowell say that certain damning testimony against the developer was inadmissible hearsay that shouldn't have been admitted. They also say one of the council members who allegedly took the bribes, the late Carolyn Davis, recanted statements against Hamilton before her death and that this should have been stated in the trial, but it wasn't.

Lowell didn't respond to requests for comment.

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Another Dallas Developer Is Accused of Bribing City Council Members


Originally indicted in February 2019, Hamilton is accused of paying Davis and former Mayor Pro Tem Dwaine Caraway for help on the City Council with his real estate developments.

Prosecutors claim Davis received \$40,000 from Hamilton in "illegal campaign donations for candidates of her choice," which constituted an illegal quid pro quo.

They also assert that Davis was supposed to be established as a political consultant after her council term. Prosecutors believe the plan was to have Davis lobby for Hamilton and others. She was chair of the council's Housing Committee at the time. In 2019, she pleaded guilty to accepting bribes from Hamilton and agreed to cooperate with prosecutors in their case against him. Four months later, Davis and her daughter died in a traffic accident.

Hamilton's lawyer says his client's dealings with Davis were legal and he was just helping Davis raise money for the candidates to "help her preserve goodwill with those candidates once she left office." Hamilton later hired Davis as a consultant, paying her \$20,000 in fees from 2015-2018.


Hamilton and Davis also allegedly used the nonprofit Hip Hop Government as a middleman for bribes and to bypass the \$1,000 limit on campaign contributions.

Jeremy Scroggins, the owner of the nonprofit, admitted in July 2019 that he was using his nonprofit to funnel bribes between the two. Charges against him included embezzlement from the charity he ran and tax violations. 

But because of a plea agreement with the FBI, Scroggins only had to plea guilty to misprision – knowing about a crime but not reporting it – the most minor of his

charges. He ended up on the prosecution's witness list against Hamilton in the trial.

"These rulings amounted to denying Mr. Hamilton a fair trial." – court filing

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Hamilton allegedly paid Caraway \$7,000 in 2018 for help with a proposed real estate development in Caraway's district. The developer also needed help from Davis with his Royal Crest Apartment Complex so it could receive over \$2.5 million in public subsidies through City Council, prosecutors say. Hamilton's attorney claims the \$7,000 check he gave to Caraway was actually to pay for medical expenses for the council member and his mother.

The court allowed Scroggins to testify about and speculate on statements Davis made about her dealings with Hamilton before her death. Scroggins previously testified that he had never met Hamilton or had any telephone conversations with him. Additionally, he "was not present when Davis got money from Hamilton," and he "did not know that Hamilton sought Low Income Housing Tax Credits," according to court documents.

Because of this, Lowell moved to have this testimony excluded, but the court allowed it.

On one occasion, Davis told Scroggins she in fact wasn't receiving bribes from Hamilton. On the stand, Scroggins speculated about the conversation, saying he believed Davis was lying. The court wouldn't allow Hamilton's team to call witnesses that refuted this testimony.

"Davis told numerous people that Mr. Hamilton had never bribed her and they believed her (as Scroggins had until he became a government witness), but the Court barred this testimony," Hamilton's legal team said in court filings. Additionally, the government was allowed to suggest in testimony that Hamilton violated local campaign finance laws, even though the court ruled in pretrial that this would be inadmissible.

"These rulings amounted to denying Mr. Hamilton a fair trial," his lawyer said, according to court records. "A new trial is warranted."



Last week, prosecutors asked the court to deny the developer's request for acquittal or a retrial.

Hamilton faces up to 25 years in federal prison.

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SB 1

**Texas House Select Committee
on Constitutional Rights & Remedies
Special Legislative Session 87(2)**

August 23, 2021

Bryan Sunderland
Opportunity Solutions Project

Chairman Ashby, Vice Chair Thompson, and honorable members of the House Select Committee on Constitutional Rights and Remedies, my name is Bryan Sunderland, and I am speaking on behalf of the Opportunity Solutions Project, a non-partisan, non-profit public policy organization that has worked with lawmakers across the country on election reform.

I'm speaking today in support of SB 1, which offers measured, commonsense solutions to safeguard Texas elections. America stands for the idea that anyone can create their own success and shape the future—and that starts with being able to cast a ballot that counts. As lawmakers, you know that there is much at stake in the details of carrying out elections. This bill addresses concerns that many Texans and Americans around the country have regarding security, fairness, and transparency in the election process.

I'd like to highlight a few key provisions of the bill.

First, this bill strengthens the integrity of mail voting by requiring a government-issued ID or Social Security number on both mail ballot applications and mail ballots. This impactful reform will ensure that voting by mail has the same ID requirements as in-person voting, creating process uniformity and decreasing the potential for fraud.

Second, the bill permits video surveillance of areas where ballots are submitted if the county population is under 100,000 and requires surveillance for counties over 100,000. The bill could further strengthen transparency by requiring surveillance at all locations. Drop boxes can be located at a staffed government office or early voting location where surveillance is already in place.

Third, the bill ensures that poll watchers can see and hear election activities, which is the core function of observers. Across the country, poll watchers were denied access to vote counting centers in 2020, causing mistrust and preventing transparency.^{1 2}

Fourth, by increasing penalties for election law violations, the bill will ensure that election officials follow the law and are held accountable if they don't. This will help to deter bad actors and increase voter confidence.

Fifth, the bill bans the practice of vote harvesting and makes a violation a felony. This will prohibit people from being paid to harvest large quantities of ballots. This accountability reform will both deter fraud and increase the security in the chain of custody for mail ballots. To strengthen this reform even further, the bill could limit the number of ballots to two that any person, paid or volunteer, can handle.

Sixth, under this bill early voting clerks are prohibited from soliciting mail ballot applications. The bill could be strengthened by extending the prohibition to public officials and including mail ballots. This will prevent voters from receiving unsolicited applications and mail ballots who didn't request them. This is a problem because it causes confusion for voters who do not want to vote by mail, and it can open the door to fraud. As you are aware, Harris County sent applications to all 2.4 million registered voters in 2020. This was an issue across the country. In Michigan, the Secretary of State mailed out applications for ballots to all 7.7 million registered voters in 2020.³ This provision would ensure that this never happens again in Texas.

Seventh, the bill prohibits public officials from creating, modifying, or suspending any election procedure mandated by law. This will guarantee that officials don't unilaterally change election procedures in the months or weeks leading up to Election Day.

¹ Joseph Simonson, "Pennsylvania Republican poll watchers allege fraud," Washington Examiner (2020), <https://www.washingtonexaminer.com/news/trump-campaign-preparing-lawsuits-alleging-fraud-in-pennsylvania>.

² Spencer Neale, "'Stop the count': Group of poll watchers demand access to Detroit polling site," Washington Examiner (2020), <https://www.washingtonexaminer.com/news/stop-the-count-group-of-poll-watchers-demand-access-to-detroit-polling-site>.

³ <https://www.michigan.gov/sos/0,4670,7-127-93094-529536--,00.html>

Finally, the bill adds voter roll protections, including a monthly review to confirm citizenship. Frequent voter roll maintenance is crucial in maintaining the integrity of voter eligibility in Texas.

I have one additional suggestion that would prevent courts from changing election law without you, the legislature, having an opportunity to weigh in. The bill could give the legislature the ability to intervene in election lawsuits and to approve consent decrees. This will prevent the practice of friendly lawsuits where litigants and judges re-write election rules.

SB 1 is an excellent bill that will give Texas voters confidence that their vote counts—by making it easy to vote, but hard to cheat. Thank you for the opportunity to testify today and I'm happy to answer any questions.

Constitutional Rights & Remedies, Select Committee
August 23, 2021
Written Testimony for SB 1

Page 45; Line 24; Bill Section 6.03 - TEC 276.015 and 276.016.

The language in SB1 defines ballot harvesting services as "*IN-PERSON INTERACTION WITH A VOTER*".

But in the research we have been doing in Harris County, we are finding ballot harvesting which involves forgery of voters' signatures, NOT in-person interaction with voters.

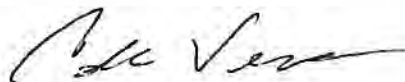
The ballot harvesting (state jail felony) charges we have before the A.G. at this time involve harvesters stealing the identities of voters for mail ballot applications. In none of these cases did the harvester have any in-person interaction with any of these voters. Four of the voters involved had been deceased for years. Other living voters have signed declarations attesting that they did NOT give the person (harvester) permission to request a mail ballot for them. In most cases, the voters said they did not even know the person who had submitted the application in their name.

SB 1 does not repeal any of the other sections of the code that deal with mail ballot fraud. However, I am concerned that this new bill will pre-empt older sections of code. By re-defining the offense as requiring in-person interaction with the voter, are we giving perpetrators an "out" for their felony trials?

The solution could be as simple as adding a line that states that "*this definition does not alter any other existing provisions in the code regarding ballot harvesting.*"

We need to avoid unintended consequences of this ballot harvesting definition in an otherwise good election bill.

I have attached three samples of "harvested" ballot by mail applications from the voters deceased long before the 2020 as well as three samples of living voters who claim they did not request a ballot by mail.



Colleen Vera
colleenmvera@yahoo.com



Liberty, equality, and truth in America

August 20th, 2021

Chairman: Rep. Trent Ashby

Rep. Senfronia Thompson

Rep. John H. Bucy III

Rep. Travis Clardy

Rep. Charlie Geren

Rep. Jacey Jetton

Rep. Ann Johnson

Rep. Stephanie Klick

Rep. Brooks Landgraf

Rep. Oscar Longoria

Rep. J. M. Lozano

Rep. Joe Moody

Rep. Victoria Neave

Rep. Matt Shaheen

Rep. James White

Via email

Re: Senate Bill 1

Dear Honorable Representatives:

Stand Up Republic is a cross-partisan, grassroots organization dedicated to defending and strengthening our constitutional form of government.

Senate Bill 1 and House Bill 3 were introduced during the 87th Legislative regular session, and now in the 87th Legislative-second special session. These bills have been filed with the sole intent of making it harder for all Texans to vote. It is hard to believe that any Texas elected official would support legislation to undermine our sacred right to vote.



Liberty, equality, and truth in America

The fact is that the Texas Secretary of State declared that the 2020 election was legal, fair, and well conducted. After 22,000 hours of investigation, the Texas State Attorney General found only 16 cases of fraud, which are being prosecuted. There is no actual evidence of widespread voter fraud. These are the facts, and they are undisputed.

Our fellow neighbors have spoken. Ragnar Research conduct a poll of 1000 likely voters with a margin of error of +/- 3%. The following is data from the poll.

1. 90% of Texans believe state lawmakers should take steps to protect elections from partisan interference.
2. 93% of voters believing that poll watchers should have proper training.
3. 86% of voters said election workers shouldn't worry about risking jail time for doing their jobs.
4. 86% oppose felony charges for assisting voters with disabilities, or voters with other unique needs, at polling locations.
5. 74% of voters want to expand early voting by one week.
6. Texas Republicans made significant gains among diverse demographics in last year's elections, and they did so by attracting new voters and registering more voters.

We do not support Senate Bill 1 in its entirety, but we find grievous fault with the following sections.

1. **Section 2.13** creates two tiers of election standards for voted ballots and live streaming standards for Texas counties (above and below 100,000 population)
2. **Section 3.01 and 3.02** – This section does not provide remedies, nor legal ramifications, for poll watchers who interfere with the election process, or who violate state election law but does penalize election officials for removing a poll watcher that has violated the state election law. This section also requires the poll watcher to receive a copy of the training, but no mandatory is training required.
3. **Section 3.03** – This section is very vague and requires further legal definition of "sit or stand near enough". For a real-world example, it is very possible for a partisan poll watcher to greet a voter at the polling location door and follow that person within the polling location.
4. **Section 3.05** – criminalizes simple human mistakes by election officials of both parties.
5. **Section 3.09** - Would prohibit counties with populations of less than 250,000 from providing a printed copy of the software activities to the Secretary of State. Why the double standard?
6. **Section 4.01** – Prohibits the use of a legal signature stamp for disabled citizens.
7. **Section 6.03** - Under this article a person does not have to prove that Vote Harvesting would change the outcome of the election, but just needs to infer it would to recover damages. If a candidate is eligible to recover damages under this section, they will recover unlimited campaign expenditures with no limits. This could encourage frivolous lawsuits for losing candidates.



Liberty, equality, and truth in America

Thank you for your service to our state. Please vote NO on Senate Bill 1. Let's keep Texas a democracy.

In Service to our republic,

Stand Up Republic (SUR)

Bryan Jones
Chairman - SUR

Stand Up Republic – Texas

Trenton Newell
Sandra Weinstein
Jeffery Brooks
Kristina Lindstrom
David Billings

David Weinberg
Brennan Center for Justice
Testimony before the Texas House Select Committee
on Constitutional Rights and Remedies on Senate Bill 1
Monday, August 23rd

Chairman Ashby and Members of the Committee, thank you for the opportunity to testify before you here today. My name is David Weinberg, and I am a voting rights advisor for the Brennan Center for Justice. The Brennan Center is a non-profit, non-partisan law and policy center, focused on the twin pillars of democracy and justice. Related to my testimony here today, the Brennan Center does research into policies that make voting more accessible while improving the integrity of our elections.

All Texans deserve a free, fair, and accessible elections system. Texans registered and voted in record numbers in 2020. And they voted in an elections system that was safe and secure.

The idea that there is widespread voter fraud or problems in Texas elections is dangerous, racist, and moreover, it is devoid of evidentiary support. In 2020, Texas Attorney General Ken Paxton's office spent 22,000 hours looking for voter fraud and uncovered just 16 cases of false addresses on registration forms, out of nearly 17 million registered voters according to news reports. Looking back, in the ten years preceding the enactment of Texas's voter-ID requirements, only two cases of in-person voter impersonation fraud were prosecuted to a conviction. Again, to put it plainly and simply: the 2020 Texas election, and past Texas elections, were accurate and secure. This sentiment has been stated by Keith Ingram, Director of the Elections Division for the Texas Secretary of State, who testified in the Texas House Elections Committee that, "In spite of all the circumstances, Texas had an election that was smooth and secure. Texans can be justifiably proud of the hard work and creativity shown by local county elections officials."

The clear and present threat to Texas voters of all political affiliations is not voter fraud, but rather voter suppression.

An analysis of state voting laws by Northern Illinois University and Jacksonville University concluded that it is harder to cast a ballot in Texas than in any other state across the country. Texas already severely limits those who may vote by mail, makes voters pay their own postage if voting by mail, and limits online voter registration to a limited category of voters. It currently also imposes onerous requirements on any citizen who wishes to register voters and requires voters to register 30 days before the election in which they want to vote, tied for earliest in the country. But while participation should be welcome in a democracy, this committee is today considering a bill that would erect obstacles to the vote, Senate Bill 1. If the facts tell us anything, Texas politicians would do best to act reasonably instead: stop the alarmism and respect Texans' access to the ballot.

Many Texas elected officials have been saying that Texas needs an elections bill that would make it, quote, “easier to vote and harder to cheat.” But the measures contained in this bill appear to be not a reaction to real incidences of cheating, but rather a fairly obvious reaction to and retaliation against successful efforts by local officials to make it safer for individuals to vote during a deadly pandemic, and by others to encourage voter participation. Senate Bill 1 makes voting and voter participation more arduous in a plethora of ways.

Senate Bill 1 would, among other measures, ban drive-thru and 24-hour voting; curb early voting; make it more difficult for voters with disabilities or language access needs to receive assistance with voting; prohibit election officials from sending mail ballot applications to eligible voters; require mail ballot applications to be hand-signed and to include ID information; make it harder for election officials and election judges to protect voters from poll watcher harassment; create a vague criminal penalty against “vote harvesting” that could capture ordinary interactions between campaigns and voters; and make it more difficult for Texas judges to accommodate voters in the event of a natural disaster or pandemic by restricting their ability to modify or suspend election procedures.

While Senate Bill 1 would impose restrictions on all Texans voter’s access to the ballot, the bill would appear to particularly impact voters of color. Limitations on voter assistance for people with limited English proficiency will have an outsized effect on communities of color. So will provisions that give great leeway to poll watchers to intimidate voters. And the apparent retaliation in Senate Bill 1 against election officials trying to make voting easier in large, diverse populations such as Harris County could not be more obvious. This coincides with new data from the United States Census Bureau showing Texas continuing to grow into a more racially and ethnically diverse state.

Given the calamitous state of Covid in Texas, with hospital systems stretched to their limits, certain portions of Senate Bill 1 that may require an individual to vote indoors or discourage an individual from engaging in contactless voting appear not only unnecessary but also grossly irresponsible. The entirety of Senate Bill 1 is unnecessary given the many false justifications for the bill – enacting provisions now to discourage voters from using drive through voting, vote by mail, or drop boxes seems beyond the pale and a dark stain on this institution.

Senate Bill 1 is a roadmap for making it more onerous for Texans to vote. It is a solution in search of a problem that exists only in the harmful rhetoric of those who continue to spread misinformation about the 2020 election and other elections.

In Texas, it is past time for lawmakers to leave divisive falsehoods behind and turn their attention to ensuring all Texas voters have fair, free, and equal access to the ballot box moving forward. We encourage this committee not to pass Senate Bill 1.



Testimony on SB 1

By: James Slattery, Senior Staff Attorney, Texas Civil Rights Project

Texas House Select Committee on Constitutional Rights & Remedies, August 23, 2021

Chair Ashby, Vice Chair Thompson, and Members of the House Select Committee,

Thank you for the opportunity to testify today regarding SB 1. During my testimony, I will highlight some of the gravest threats that this bill poses to Texas voters:

- Eliminating drive thru voting and extended early voting hours, even though these are vital COVID-19 safety measures and are used disproportionately by voters of color;
- The granting of expansive new powers to partisan poll watchers while diminishing vital safeguards against the abuse of such powers;
- An unnecessary requirement for voters to provide their ID/Social Security Number with their vote by mail materials that lacks sufficient safeguards to protect voters;
- An insufficient process to allow voters to cure signature problems on their vote by mail ballots;
- Problematic changes to procedures for curbside voting and the oath that voter assistants take.

But as the Committee considers these and other provisions in SB 1, it should bear in mind two important facts. First, during the March 4, 2021 hearing of the House Elections Committee, the Director of the Elections Division of the Texas Secretary of State reported to the Committee the official position of the Government of the State of Texas: that the most recent state elections, in 2020 election, were “a success” and that our elections were “smooth and secure.”

Second, Texas is already the hardest state to vote in the entire country. That is not an opinion. That is an objective fact. According to a landmark study published in 2020 by Northern Illinois University, which measured the burdens imposed on voters when trying to register and cast a ballot via a “Cost of Voting Index,” Texas ranked 50 out of 50 among US states.¹ Among other problems, we have no online voter registration, only a few discrete groups of Texans can vote by mail, and 750 polling places were closed between 2013 and 2019, predominantly in communities of color.² Indeed, TCRP has documented the systemic barriers voters routinely face in Texas in a number of reports in recent years.³

¹ See Scot Schraufnagel et al., *Cost of Voting in the American States: 2020*, 19 Election Law Journal 503, 508 (2020), available at <https://www.liebertpub.com/doi/pdf/10.1089/elj.2020.0666>.

² Leadership Conference Education Fund, *Democracy Diverted: Polling Place Closures and the Right to Vote* at 17 (Sept. 2019), <http://civilrightsdocs.info/pdf/reports/Democracy-Diverted.pdf>.

³ See, e.g., Beth Stevens et al., *Texas Election Protection 2016: An Overview of the Challenges Faced by Texas Voters in the Presidential Election* (2017), <https://texascivilrightsproject.org/wp-content/uploads/2018/09/EP-Report.pdf>; Beth Stevens & Emily Eby, *Texas Election Protection 2018: How Election Administration Issues Impacted Hundreds of Thousands of*



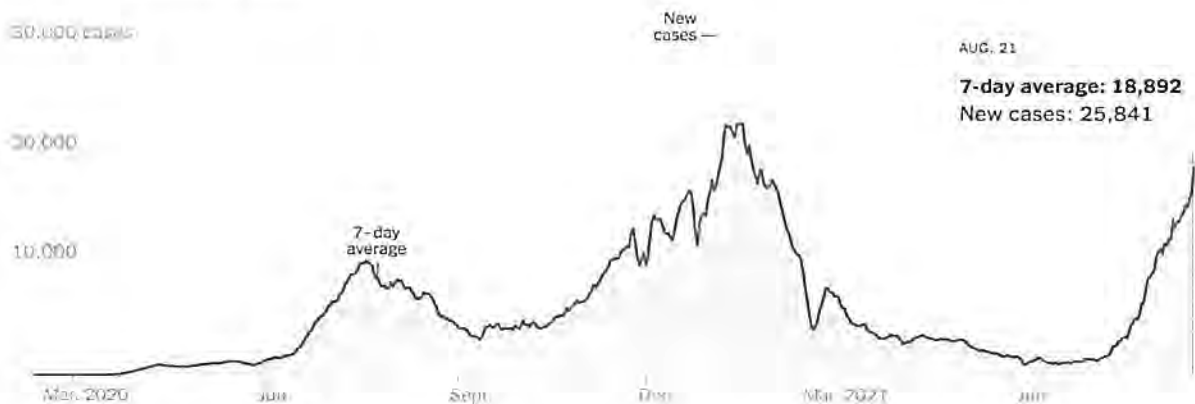
SB 1 does nearly nothing to make our elections more secure. But it will advance the Big Lie about the 2020 election, and enshrine the Big Lie further into the laws of the State of Texas.

Banning drive thru voting and extended early voting hours will make voting more dangerous during the pandemic, and disproportionately affect voters of color

We oppose the bans on drive thru voting in Sections 2.01, 2.09, and 2.10, and the bans on extended early voting hours in Sections 2.06 and 2.07. Drive thru voting and extended early voting hours have been vital measures keeping voters from being infected with COVID-19 while voting. Instead of going inside a crowded polling place where some people were not wearing masks, voters can cast a ballot from the safety of their car. By spreading out voting over a longer period of time, extended early voting hours reduce the number of in-person voters present at any given moment in a polling place, making it less likely that polling places would become super spreader events.

As the recent surge of COVID-19 cases in Texas makes clear, the pandemic is far from over. As you can see in the chart below from yesterday's New York Times, the 7-day average of COVID-19 cases in Texas is near a record high. There will almost certainly be new variants and new waves of the virus before it is finally crushed. When even the Governor of the State of Texas is not safe from COVID-19 infection, it would be madness to make it even more dangerous to vote during the pandemic. Simply put, eliminating drive thru voting and extended early voting hours means that some number of voters will be infected and die if this bill passes.

New reported cases



Voters (2019), available at

<https://texascivilrightsproject.org/wp-content/uploads/2019/03/2019-Election-Protection-Report.pdf>;

Wajiha Rizvi, *Curbside Voting and Disability Access in the 2020 General Election* (2021), available at

<https://txcivilrights.org/wp-content/uploads/2021/01/Curbside-Voting-Report.pdf>; Judy Bao, *Voter*

Intimidation in Texas During the 2020 General Election (2021), available at

<https://txcivilrights.org/wp-content/uploads/2021/02/Voter-Intimidation-report.pdf>.



Further, the burden of taking away drive through voting won't fall on all voters equally. Attached to my testimony is an analysis that TCRP conducted with Targetsmart of the voters who used drive through voting and extended early voting hours, and found that they were more likely to be used by people of color than early voters as a whole. This is unsurprising, given that people of color have been disproportionately more likely to be infected with the coronavirus and die from it than white Texans, and they tend to have less flexible work schedules.

TCRP and other organizations have repeatedly pointed out the disparate impact of both of these provisions when testifying on them during the recent regular session. If the Legislature still chooses to enact these provisions after having received such data from multiple sources on a number of different occasions, the only reasonable conclusion is that these provisions in fact reflect a discriminatory intent by the Legislature to eliminate forms of voting because they are used by voters of color. That this disparate impact is not merely an unfortunate side effect of SB 1, but is in fact the primary and intended purpose of the Legislature of these provisions.

Moreover, imposing early voting only after 6am and before 9pm takes away from local officials the authority to set early voting times that fit the needs of their communities. Indeed, local officials often allow polls to remain open past 9pm because extended hours voting is vital for shift workers, first responders, folks with irregular schedules, and voters with substantial family responsibilities that make voting during "regular" hours exceptionally difficult.

When *Texas Monthly* interviewed voters in Harris County who were participating in its 24-hour voting program, they found a number of voters overjoyed to have this option because they would've found it nearly impossible to vote otherwise, including: an engineer who works in the Houston Ship Channel for an oil field services company; an employee of Metro, Harris County's public transportation agency; a construction project manager; "[a]n overworked Amazon delivery driver"; "[a] middle-aged teacher, still wearing her business-casual work attire"; and an H-E-B employee.⁴

We therefore urge the Committee to remove these provisions, so that counties can continue to work to make voting safe and accessible by offering drive thru voting and extended early voting hours.

⁴ Peter Holley, *Meet the Harris County Voters Who Showed Up After Midnight to Cast a Ballot*, *Texas Monthly* (Oct. 30, 2020), <https://www.texasmonthly.com/news-politics/harris-county-24-hour-voting/>.



SB 1 will empower partisan poll watchers to wreak havoc in polling places and intimidate voters

I wish to raise serious concerns with Sections 3.03, 3.04, 3.05, 3.06, 3.07, 4.13, and 4.15, which would expand the powers and rights of partisan poll watchers while removing vital safeguards that prevent them from wreaking havoc in the voting process.

Partisan poll watchers are appointed by political campaigns to be their agents inside the polling place. The Election Code is very explicit in Section 33.001 that watchers are appointed “on behalf of a candidate, a political party, or the proponents or opponents of a measure.” Partisan poll watchers serve at the pleasure of the campaigns that have appointed them and represent the interests of those campaigns, not the public at large.

To be a partisan poll watcher, you are not required under Texas law to complete any kind of training or examination in election law or procedures. To the extent that political parties voluntarily train poll watchers in Texas’s election laws, the content and accuracy of such training is entirely at their discretion, and may vary highly in quality from one county to the next. They don’t take an oath to observe Texas’s election laws, swearing only that they either do not have a recording device or have disabled one.

These are not just theoretical dangers to voting posed by partisan watchers. As TCRP has documented in a report I have attached to this testimony,⁵ from which I am drawing the following material, partisan watchers have been deployed throughout American history -- from Reconstruction to the present day -- to harass, intimidate, and violently attack voters of color and voters of the opposing partisan affiliation. For instance, in the lead-up up to the 1964 presidential election, the Republican National Committee launched the so-called “anti-fraud” campaign known as Operation Eagle Eye. They recruited tens of thousands of volunteers to show up at polling places in communities of color and challenge voters’ eligibility, take unwelcome photographs, loudly describe voters on two-way radios, and summon Republican-friendly police officers. Operation Eagle Eye deployed 10,000 volunteers in Texas alone.

Such efforts didn’t end then. In 1981, the RNC organized a partisan poll watching group called the National Ballot Security Task Force. This group included armed off-duty police officers who patrolled polling places, occasionally removing voters in Latinx and Black neighborhoods. Evidence in litigation that followed included the party’s plans to discourage voting by placing intimidating poll watchers in communities of color in Harris County, Texas. Party representatives made overt racial remarks across the country, such as “If it’s a close race . . . which I’m assuming it is, this could keep the black vote down considerably.” The parties signed a consent decree allowing a

⁵ Emily Eby and Joaquin Gonzalez, Texas Civil Rights Project, *Opening the Floodgates for Racial Intimidation, Disenfranchisement, and Violence by Expanding Poll Worker Authority*, available at <https://txcivilrights.org/wp-content/uploads/2021/05/TCRP-Poll-Watcher-Report.pdf>.



federal court to review any proposed “ballot security” activities of the RNC, particularly in minority areas--a consent decree that lapsed only in recent years.

Poll watchers in Texas have also been known to call Border Patrol in an attempt to curtail Latinx turnout. In the 1980s in the Rio Grande Valley, poll watchers were known for intimidating non-English speaking voters by trying to kick them out of the polls and photographing them.

This is not ancient history. In 2018, Dallas poll watchers had to be escorted out for looking over voters’ shoulders. In 2010 and in 2020, Houston poll watchers were reported for being too close to voters. The latter was especially intimidating to voters who were susceptible to COVID-19 and forced to vote in person by Texas’s draconian vote-by-mail requirements.

And Common Cause Texas recently obtained video footage of a Harris County Republican Party presentation recruiting and training poll watchers for the 2020 General Election. Throughout the video, the presenter uses dog whistles to target exclusively minority neighborhoods and rile up potential volunteers to form an aggressive poll watching “brigade.” The presenter states that the predominantly white suburban areas of Harris County are “safe,” therefore “courageous” watchers from the suburbs need to venture into Harris County’s predominantly Black and Brown urban core, highlighting particular areas on a map. Wheeler Baptist Church, a historic Black church with storied ties to the civil rights movement, is singled out as a particularly problematic example, despite the fact that no evidence is cited or exists indicating that fraud has occurred at this polling place.

SB 1 would give these partisan campaign volunteers a de facto license to run roughshod over election workers trying to conduct voting, and impose criminal penalties on efforts by poll workers to keep partisan watchers from interfering with voting. Section 3.04 requires that partisan watchers “may not be denied free movement where election activity is occurring within the location at which the watcher is serving” and Section 3.05 grants partisan watchers the power to observe “all election activities relating to closing the polling place.”

At the same time that SB 1 grants partisan watchers such expansive new rights in polling places, Sections 3.03, 3.06, and 3.07 create an incentive structure for election workers to refrain from regulating the use of these new powers. If a poll worker believes that a partisan watcher has become too disruptive and should therefore leave the polling place, that partisan watcher can now threaten poll workers with a new Class A misdemeanor of refusing to accept their service. And if a poll worker asks a partisan watcher to move a few steps in any one direction, the watcher can now threaten poll workers with a new Class A misdemeanor for “taking any action to obstruct the view of a watcher or distance the watcher from the activity or procedure to be observed in a manner that would make observation not reasonably effective.” If a watcher disagrees with anything a poll worker asks them to do, the watcher can threaten the poll worker with a new cause of action for injunctive relief.

Changes made to this bill during the first special session do not provide sufficient safeguards against abusive behavior by partisan poll watchers. Although Section 3.02 requires parties to provide



partisan watchers with a training manual published by SOS, SB 1 does not affirmatively require that partisan watchers actually be trained on the contents of the manual, nor require them to affirm that they will abide by the procedures contained therein.

Expanding watchers' authority would allow the candidates and parties they represent to intimidate voters up until the last moment of the process, even as they cast their ballots, building on a racist history of vigilante poll watchers dating back to Reconstruction. These provisions open the flood gates for voter intimidation by granting actors with a well documented history of political vigilantism expansive new powers and rights while also diminishing the ability of poll workers to protect voters from them.

An unnecessary new requirement for voters to provide their ID/Social Security Number with their vote by mail materials lacks sufficient safeguards to protect voters

When applying to vote by mail or submitting their vote by mail ballot, Article 4 would require voters to supply their Texas driver's license/election identification/personal ID card number with their application or ballot. If they do not have such a number, then they would have to supply the last four digits of their Social Security number. And if they have neither, a statement to that effect. The number supplied must "identify" the same voter identified on the voter's application for voter registration, or else their vote by mail application/ballot will be rejected.

It is easy to see the needless chaos and mass disenfranchisement this irrational new process will create. First, vote by mail applications and carrier envelopes are already complicated enough for voters to navigate, with a bewildering array of fields they must fill out after reading instructions in small and dense type. Adding another required field makes it all too likely that voters will miss this or another required field, and have their right to vote needlessly taken away from them.

Further, voters must handwrite those numbers on the form. The quality of people's handwriting varies wildly, as does the ability to interpret others' handwriting. If a voter driver's license number ends in a "9," they should not lose their right to vote because an election worker mistakenly interprets it as a "4" and therefore concludes that the numbers don't match or identify the relevant voter.

It is also not clear at all what it means to require that the number provided by the voter "identify" the same voter identified on the voter's registration application. For instance, it is not clear how this would protect a voter who put one kind of number on their voter registration application (such as a Social Security Number) and a different kind of number on their mail ballot materials (such as driver's license number). If this refers to some safeguard to ensure that voters' ballots are not needlessly rejected, that process needs to be explicitly spelled out in the bill itself.

Although SB 1 was amended by the Senate to include a rudimentary cure process for voters at risk of having their mail ballot materials rejected under this new requirement, these changes aren't sufficient. First, the Senate did not create a process for counties to proactively provide notice to mail



ballot applicants before rejection. SB 1 now sets up a process for potentially proactively notifying the voter when the voter returns a marked ballot, but that is much later in the process than when the voter turns in a VBM application. Further, under SB 1, the opportunity to cure any issues with a VBM ballot -- whether a signature problem, an ID number problem, or some other problem -- is not mandatory on counties. Whether you receive notice/opportunity to cure will still depend on whether your county chooses to do so.

The opportunity to cure vote by mail ballots provisions should include an option to cure other than just in-person

Every major election, Texas counties reject thousands of mail-in ballots solely on the basis of mismatched signatures — including at least 1,873 mail-in ballots rejected during the 2018 General Election. The current process for signature verification under Texas law authorizes untrained local election officials to arbitrarily and subjectively reject mail-in ballots if officials believe, based on their own layman analysis, that the signature on a ballot is not the voter's signature. No advance notice is given to voters before their vote is rejected, and the decision to reject a mail-in ballot is final.

To make matters worse, once a ballot is rejected, there is no way for a voter to save themselves from disenfranchisement even if they somehow find out about the rejection before Election Day and can vote in-person. According to the SOS, they are not allowed to cancel that rejected ballot and cast a ballot that counts at the polls. My organization is currently engaged in litigation challenging this arbitrary process as a violation of the Equal Protection and Due Process Clauses of the U.S. Constitution, as well as the Americans with Disabilities Act and the Rehabilitation Act of 1973.

This bill would improve the situation these voters face by potentially providing some mechanism for voters to be informed of a problem with the signature on their mail-in ballot and correct it. It however doesn't go far enough to truly solve this problem. First, this bill fails to make mail-in ballot curing mandatory for counties. This omission will result in uneven enforcement from county to county. Some properly registered Texans will get a chance to vote, while other identically positioned Texans across the county line will not.

Further, the current version of SB 1 allows voters to cure for the most part only in person, since most mail-in ballots are reviewed close to, on, or even after Election Day. All mail-in voters should be able to choose whether to cure their ballot by mail, phone, email, fax, or in person, regardless of when their mail-in ballot is reviewed. A large subset of mail-in voters are away from home and can't return in person to correct the error. Also, many voters can't cure in-person because of age, disability, or confinement in jail.



SB 1 includes problematic changes to procedures for curbside voting and the oath that voter assistants take

Section 5.01 would discourage people from assisting voters with disabilities by imposing an unnecessary new form they must fill out if they drive three or more curbside voters to the polls, and at least one of them is not a relative of the driver.

Section 5.04 would change the voter assistant's oath, making the assistant swear that they did not "encourage" the voter to choose them as an assistant. This would mean, for instance, that people could not encourage their family members or friends to go vote and use them as an assistant--making it harder and scarier for people to vote with no benefit to election security.

There are many proposals the Committee should adopt instead that would make elections more secure and accessible

If the Committee wants to use SB 1 to make Texas's elections more secure while making the ballot more accessible to voters, there are a number of policies that it could consider instead. Most urgently, the state could enact online voter registration -- used today by 40 other states. OVR would make our voter rolls far more accurate by allowing for real time updates from voters and avoiding mistakes that happen when election officials misinterpret voters' handwriting. Texas could also allow voters to register closer in time than 30 days before the election. It could make all Texas voters eligible to vote by mail, as 34 other states do, so that Texas voters could choose the voting option that works best for them. It could allow Texans to vote with a student or tribal ID. It could codify Governor Abbott's Covid order allowing early voting to start three weeks before election day.

During the interim charge process in advance of the 87th Legislative Session, TCRP submitted a number of these positive election reform proposals that would bolster election security while making it easier for people in Texas to vote.⁶

In our country, the government belongs to the people. Elections are the most important mechanism by which the government holds itself accountable and makes itself responsive to the people. It is the most basic duty of government to ensure that its citizens can vote in free and fair elections. And the most important component of that duty is to clear away any and all unnecessary obstacles standing between the voter and the ballot box. Every Texas voter should be able to cast a ballot that is fairly and accurately counted, but SB 1 would be a giant step backward from that vision of full democracy in Texas.

⁶ See Written Testimony of Alesandra (Ali) Lozano, MSW on Interim Charge #1, Sept. 18, 2020, available at https://drive.google.com/file/d/18qWb4eWPC_rFNLmfnZZLTkdNKJhzdWK/view; Written Testimony of Joaquin Gonzalez on Interim Charge #2, Sept. 18, 2020, available at <https://drive.google.com/file/d/1nqYV9P1UbZomGDPOSSNwL2GsTU8aAwz3/view>; Written Testimony of James Slattery on Interim Charge #3, Sept. 18, 2020, available at https://drive.google.com/file/d/18KTrpTrDLTdsq_50AZAlm9JBVE2RkM4L/view.

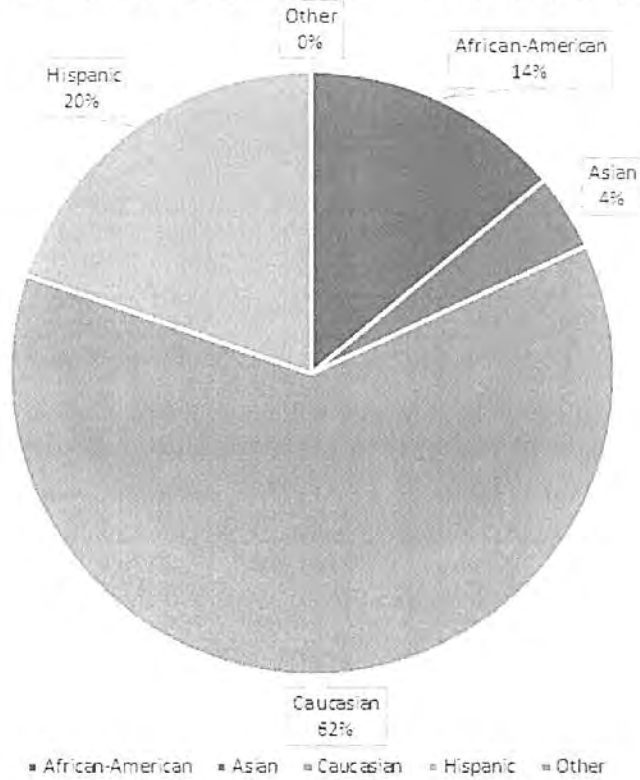


TEXAS

CIVIL RIGHTS
PROJECT

Chart 1 of 3

Estimated Demographics of All Harris County Early Voters





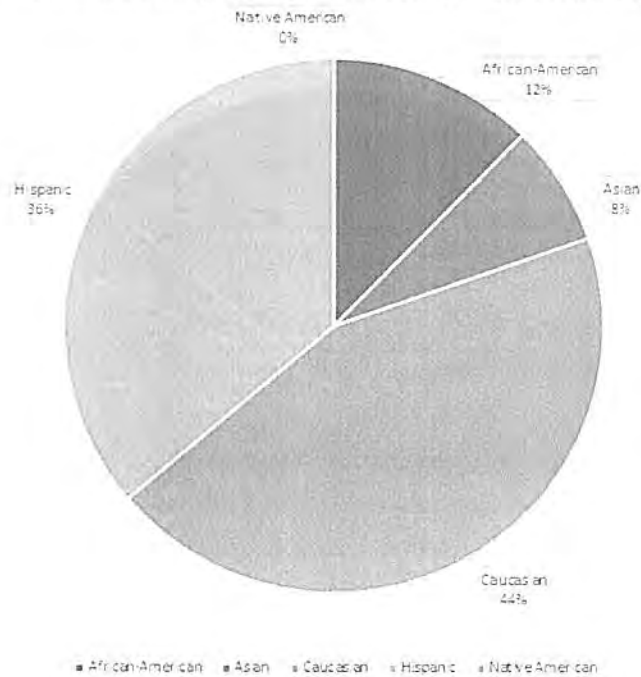
TEXAS

★

CIVIL RIGHTS PROJECT

Chart 2 of 3

Estimated Demographics of Harris County Extended Hours Voters



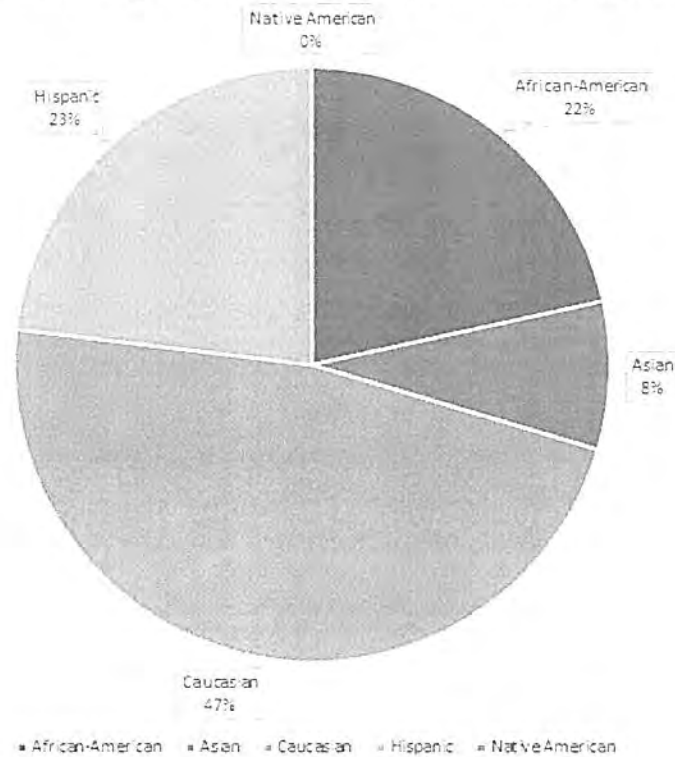


TEXAS

CIVIL RIGHTS
PROJECT

Chart 3 of 3

Estimated Demographics of Harris County Drive-thru Early Voters



***Opening the Floodgates
for Racial Intimidation,
Disenfranchisement,
and Violence by
Expanding Poll Watcher
Authority***

***"If We Can Disqualify
Enough Blacks
and Enough Mexican
Americans..."***

- Arizona Poll Watcher

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Introduction

The Texas Secretary of State's Poll Watcher's Guide opens with a charge: regardless of their political affiliation, the poll watcher's "main interest is in the conduct of a fair and honest election."¹ It goes on to say that a watcher's duty is to "observe the conduct of the election at the location where the watcher has been appointed."² They can point out "an observed irregularity or violation of the Texas Election Code" to a poll worker, but they are not allowed to talk to voters or be in the "polling station" when someone votes.³ The current guidance ends by reminding poll watchers that election judges are the ones ultimately responsible for maintaining an orderly polling place, so watchers "should establish a cooperative relationship with these presiding officers and work with them to ensure that the voting process works smoothly."⁴

The Texas Legislature is looking to change that.

The two "election integrity" omnibus bills of the 2021 legislative session are HB 6 and SB 7. Though both bills have mutated many times over the last few months, one thing remains constant: both bills give partisan poll watchers free rein to disrupt the voting process. These, and other smaller bills, grant new protections and new rights to watchers. Expanding watchers' authority would allow the candidates and parties they represent to intimidate voters up until the last moment of the process, even as they cast their ballots, building on a racist history of vigilante poll watchers dating back to Reconstruction. These bills open the gate for voter intimidation, as well as disruption of the entire democratic process.

In this short paper, we'll dive into the reasons that it is such a bad idea to bestow poll watchers with unlimited power in the polling place. We'll look back into the past to see how poll watching has invited disenfranchisement, intimidation, and violence into the voting booth. We'll take a peek into the recent past to see how poll watchers used even their current power to intimidate voters in the 2020 General Election. Finally, we'll look at the poll watcher bills moving through the Texas legislature at present, and talk about why they must not become our future.

¹ Poll Watcher's Guide, page 2. TX SOS.

² Poll Watcher's Guide, page 9. TX SOS.

³ Poll Watcher's Guide, page 9-11. TX SOS.

⁴ Poll Watcher's Guide, page 21. TX SOS.